

PUBLIC TELECOMMUNICATIONS FINANCING ACT OF 1978

MAY 15, 1978.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 12605]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

PURPOSE OF THE LEGISLATION

The legislation serves six primary purposes:

(1) Continue and increase (via the Corporation for Public Broadcasting) long-term Federal funding (5-year advance authorization, 2-year advance appropriation) for noncommercial public telecommunications;

(2) Encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of noncommercial educational and cultural radio and television programs, and other related noncommercial informational and instructional services to the public;

(3) Assist (via Commerce Department's National Telecommunications and Information Administration) in the planning and construction of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means;

(4) Assist (via the Department of Health, Education, and Welfare) in demonstration projects designed to assess the effectiveness of various telecommunications technologies in the delivery of health, education, and social services;

(5) Provide greater accountability to the public by recipients of funds from the Corporation for Public Broadcasting (including open board meetings, open financial reports, and strengthened audit requirements);

(6) Increase the availability of public telecommunications services to minorities and women, as well as stimulate efforts to expand ownership and employment opportunities for women and minorities in public telecommunications.

SUMMARY OF THE LEGISLATION

1. *Facilities program*.—This program, which funds station facilities and equipment, is moved from HEW to the new National Telecommunications and Information Administration at the Department of Commerce. Eligibility for grants is broadened to include nonbroadcast technologies and nonlicensees. Priority is placed on expansion of the system's coverage and on increasing the involvement of minorities and women. Not more than 25 percent of the funds appropriated each year may be used for improving existing facilities. Proposed authorization for this program is \$40 million for each of the next three fiscal years. (Current authorization is \$30 million, appropriation is \$18 million). 25 percent of the appropriation each year is earmarked for noncommercial radio facilities to permit expansion of the system (it now reaches about 60 percent of the population).

2. *Telecommunications Demonstration program (H.E.W.)*.—The proposed authorization for fiscal year 1979 is \$1 million, which is the same as the current authorization.

3. *Corporation for Public Broadcasting (CPB)*.—CPB's mandate is broadened to include the funding and development of programs and services designed for nonbroadcasting uses. CPB is required to expend a significant portion of its funds on programing, and to reserve a substantial amount for distribution to independent production entities. To the maximum extent possible, CPB is required to use panels of experts to review programing proposals.

In regard to financing, a 3-year authorization would be added to the 2 years that remain on the existing authorization. Levels would be \$180 million in fiscal year 1981, \$200 million in fiscal year 1982, and \$220 million in fiscal year 1983. In fiscal year 1981, the match will be lowered to \$2 (non-Federal) to \$1 (Federal). Following a study of the matter by CPB, stations will be permitted to certify the value of personal services of volunteers as not more than 5 percent of their non-Federal income.

CPB's funds are to be disbursed from the Treasury on a quarterly basis. (Funds are now disbursed on a lump-sum basis, and CPB collects interest on unexpended sums). A 5 percent ceiling is placed on CPB's internal administrative budget beginning in 1981. All meetings of the CPB Board and advisory committees are required to be open, except those dealing with personnel matters, contract and labor negotiations, etc. CPB is required to develop a uniform accounting system to be

used by the stations. Salaries of CPB, PBS, and NPR officers and employees are limited to not more than level I of the Executive Schedule.

4. *Stations (Public Telecommunications Entities).*—

(A) Financial accountability: All stations are required to use a uniform accounting system developed by CPB and to undergo an annual independent audit. The audit report and financial reports to CPB must be open to the public at the station.

(B) Open meetings: All board and advisory committee meetings of PBS, NPR, and the stations must be open to the public, except for those dealing with personnel, labor and contract negotiations, et cetera. Stations also are required to establish Community Advisory Boards.

(C) EEO: Equal opportunity in employment (including appointment to governing and advisory bodies) must be afforded to all. This is to be enforced by HEW's Office for Civil Rights. CPB shall carry out pre-grant certification and monitoring activities. Penalty for noncompliance is suspension or reduction of funds.

(D) Editorializing ban and record-keeping requirements of section 399 are eliminated for all stations. However, stations are prohibited from supporting or opposing candidates for political office.

(E) Community service grants: Several new criteria for grants are added.

(F) Access to satellite interconnection: Unused capacity on interconnection systems must be made available to persons who wish to transmit noncommercial programs to the stations. CPB is directed to develop reasonable terms and conditions governing use of excess capacity.

HISTORY OF THE LEGISLATION COMMITTEE ACTION

On October 6, 1977, the President transmitted to the Congress a message on public broadcasting and proposed legislation which extended the authorization for the public broadcasting system and made a number of other changes in existing law. The proposed legislation was introduced by Chairman Staggers as H.R. 9620. The committee, acting through its Subcommittee on Communications, held a public briefing on the administration bill on October 19, 1977, at which representatives of the Department of Commerce and the Office of Telecommunications Policy explained the provisions of the bill and responded to questions raised by the subcommittee.

The text of the President's Message on public broadcasting follows:

THE WHITE HOUSE,
October 6, 1977.

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programing. This administration will not try to stifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

- Devote more resources to high-quality national programing.

- Set long-range goals by which its progress can be judged.

- Plan how public television and radio signals can be brought within reach of all citizens.

- Provide greater accountability to the public.

- Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programing.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the 10 years since the Public Broadcasting Act first provided Federal funds for programing. Public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, state, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programming, or the special needs of Hispanics, blacks, women, the elderly, or other distinct audiences.

Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal, and fewer than two-thirds can receive public radio.

Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

Increase employment, training, and ownership opportunities for minorities and women.

Support local, State, and regional programming. Programming of local interest is an important resource.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows:

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of 5-year authorization and 2-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of \$152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total \$1.041 billion. This includes a 5-year authorization for CPB at \$180 million for fiscal year 1981 and \$200 million in each of the four succeeding years. It also includes a separate grant program of \$30 million annually for technical facilities in fiscal 1979 and 1980, and \$1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at \$200 million after the second year. Such leveled funding will insure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in light of new tech-

nology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programing.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB). CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programing in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fund-raising from private sources and governmental agencies, and development of new communication services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programing staffs.

At present, CPB itself often chooses which individual programs or series to fund. This:

- Reduces CPB's effectiveness as a political insulator.

- Reduces its ability to focus on long-range planning and new educational services.

- Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programing. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue:

CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multiyear bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

CPB would be required to prepare a 5-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operations, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programing.

CPB would not need a substantial staff for program decisionmaking and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programing.

INCREASE FUNDS ALLOCATED FOR NATIONAL PROGRAMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programing their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only \$17 million of its current \$103 million appropriation directly to national programing. In addition, about \$19 million of the \$58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programing. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25 percent of funds appropriated to CPB in future years shall be used for a national programing fund for bloc grants for such productions. This will insure that by FY 1982 up to \$50 million, depending on the appropriation level, would be earmarked for national programing. These programs will continue to be produced on a decentralized basis, by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25 percent of the Federal money to national programing. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by any other mechanism. This would provide a total of up to \$100 million for national programing in fiscal year 1982. Minorities, women and independent as well as station producers should have access to these funds as well as those in CPB's National Programing Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the States—to hold up their end of this funding partnership. Currently, non-Federal sources such as State and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, State funds have levelled off.

As a former Governor, I know the pressures on State budgets. But State support of public broadcasting, which brings State legislative proceedings and other vital services to citizens, should be maintained. I urge States that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requires the system to raise \$2.50 for every \$1 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if States increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to \$2.25-to-\$1. This figure assures a continued incentive for fundraising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorizations levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW
TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the educational broadcast facilities program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next 2 years, pending submission of such a plan, I propose to continue the facilities program's present \$30 million annual authorization.

I also propose changes in the facilities program to:

Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

Make regional networks and other groups of stations eligible for facilities funds.

Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programing available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a State or local government instrumentality. But Congress has recently amended the tax code to allow private nonprofit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow nongovernmental licenses to exercise their first amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. public television station licenses. Another step toward journalistic independence would be for State and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage States to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from Government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPS, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decision-making levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately \$25 million was contributed to public broadcasting directly by the four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedule, as well as many local and state productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rule for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals

that would bring public television and radio closer to parity with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvements priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighed.

I urge Congress to consider promptly, and to pass, the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER.

On February 22, 1978, a package of amendments to the legislation was submitted by the administration, and the bill was reintroduced as H.R. 11100. The administration later submitted a final amendment to the bill which was then reintroduced by Chairman Staggers on April 12, 1978 as H.R. 12073.

On April 11, 1978, Mr. Van Deerlin, chairman of the Subcommittee on Communications, introduced H.R. 12021 as an alternative to the legislation proposed by the administration. H.R. 12021 was designed to strengthen and clarify the provisions of the administration's bill, consistent with the principles and objectives set forth in the President's Message on Public Broadcasting.

Hearings

The committee, acting through its Subcommittee on Communications, held 3 days of hearings (April 18, 19, and 20, 1978) on H.R. 12073 and H.R. 12021. In those hearings, representatives of the administration, the chairmen of the boards and presidents of the Corporation for Public Broadcasting, the Public Broadcasting Service, and National Public Radio were present and gave testimony. In addition, the subcommittee received testimony from representatives of the National Council of Churches of Christ, the American Federation of Television and Radio Artists, the National Association of Educational Broadcasters, Citizens Communications Center, the National Federation of Community Broadcasters, and the Cooper Union.

Other witnesses included the former Director of the CPB Task Force on Women in Public Broadcasting, several independent producers, the chairman of the "Committee to Save KQED," two managers of public broadcast stations, and the administrator of the Instructional Television and Radio Division of the Florida Department of Education.

Markup

The Subcommittee on Communications met on May 2 and May 4, 1978, to mark up H.R. 12021. A number of amendments were introduced and adopted by the subcommittee. These amendments:

(1) Provided that the costs incurred by the Department of Commerce in administering the facilities program could be drawn from the appropriated funds.

(2) Earmarked 25 percent of annual appropriated funds for the expansion and development of public radio.

(3) Deleted the 8½ percent facilities funds allocation per state.

(4) Limited the salary levels of CPB, PBS, and NPR officers and employees to not more than that of a level I Cabinet member.

(5) Provided that the Corporation should assist in the development of programs of "high quality, diversity, creativity, excellence and innovation."

(6) Required the Corporation to expend its funds in a "prudent and financially responsible" manner, and prohibited the expenditure of funds for entertaining Government officials or employees.

(7) Provided that each public broadcast station must establish a community advisory board.

(8) Provided that the Corporation shall establish reasonable terms and conditions governing use of the excess capacity of the inter connection systems, and that any charge made for such use should not exceed any cost which is directly attributable to the cost of transmitting the material.

(9) Provided that the matching ratio be lowered to \$2 (non-Federal) to \$1 (Federal).

(10) Provided that the authorization ceiling for fiscal year 1983 be raised to \$220 million.

(11) Provided that certain station support activities now provided by CPB could be included in CPB's annual grants budget as long as the funds were distributed to entities outside the Corporation.

(12) Provided that the open board meetings provision in the bill would include meetings of committees of governing boards and advisory boards. The amendment also specified exceptions to this provision, including meetings dealing with litigation, personnel, labor or contract negotiations, preparation of competitive proposals, or discussion of trade secrets or information obtained on a confidential basis.

(13) Provided that not less than 50 percent of the funds distributed by CPB to television stations shall be used for the production and acquisition of programs, including programs by independent producers and production entities.

(14) Provided that, to the maximum extent possible, CPB should utilize panels of experts to evaluate program proposals, and that a substantial amount of CPB's program funds should be reserved for distribution to independent producers and production entities.

(15) Provided additional criteria for CPB to use in determining the amount of funds to distribute to each station.

(16) Clarified the equal employment opportunities responsibilities of the Corporation and the Secretary of HEW.

(17) Deleted the provision that excluded the personal services of volunteers in the determination of non-Federal support, except that such inclusion may not exceed 5 percent of the station's total non-Federal financial support. In addition, CPB was directed to undertake a study of the manner in which volunteer services are to be valued and recorded by the stations.

(18) Deleted the editorializing ban and recordkeeping requirements of section 399, except that stations are prohibited from supporting or opposing political candidates.

Following the markup, a clean bill incorporating the amendments was prepared and introduced by the subcommittee chairman, Mr. Van Deerlin, for himself, Mr. Frey, Mr. Carney, Mr. Wirth, Mr.

Russo, Mr. Markey, Mr. Gore, Ms. Mikulski, Mr. Waxman, Mr. Moore, Mr. Moorhead of California, and Mr. Marks. The bill (H.R. 12605) was unanimously reported to the full committee.

On May 15, 1978, the full committee considered H.R. 12605, adopted two substantive amendments, and by a unanimous voice vote ordered the bill reported to the House. The committee amendments were as follows:

(1) Deleted the requirements that CPB submit its 5-year programming and services plan to Congress as part of its annual report to Congress.

The committee believes that CPB should engage in long-range planning for the system, but feared that inclusion of the plan in CPB's annual report to Congress could open the door to unwarranted congressional oversight of program content. Therefore, the planning requirement is maintained, but submission of the plan to Congress is not required.

(2) Deleted a provision added in subcommittee markup that would have required that 50 percent of the television community service grants be used for programming, and that a "substantial amount" of such funds be used to acquire programs from independent producers and production entities.

In deleting this provision, the committee expressed its concern that establishing specific percentages would constitute direct Government intervention in the management of public stations, and set a precedent for future congressional determinations as to how stations should spend their funds.

The committee nevertheless reaffirms its judgment that programming should be the system's highest priority, and that the stations should make a maximum effort to secure and deliver programming to their communities. It was pointed out during the committee's debate that, on the average, 58 percent of the CSG's are devoted to programming. The committee believes it is not unreasonable to expect that this commitment will not only be continued but increased during the life of this bill.

The committee also recognizes the value of independent producers to the public broadcasting system. Not only are they capable of supplying programming which meets the system's needs, but they are often able to do so at a substantially lower cost than in-house productions. For too long, as documented in the hearing record, independent producers have been denied sufficient access to the system at the station level.

Therefore, even though this legislation does not require the stations to devote a substantial amount of their programming funds to independent producers, the committee strongly encourages the public broadcasting stations to provide them the fullest possible access consistent with their independent broadcasting judgment.

BACKGROUND AND NEED

Public broadcasting facilities grant program

The public broadcasting facilities grant program was established by Congress in 1962 to provide matching grants to establish and expand public television broadcasting stations. The Public Broadcasting

Act of 1967 expanded the program to include educational radio facilities. Under the program, the Secretary of Health, Education, and Welfare (HEW) is authorized to make grants to eligible applicants of up to 75 percent of the cost of acquiring and installing radio and television broadcasting apparatus.

EDUCATIONAL BROADCAST FACILITIES FUNDING HISTORY

[Thousands of dollars]

| Fiscal year | Authori- zation | Appro- priation | Fiscal year | Authori- zation | Appro- priation |
|----------------------|--------------------|--------------------|-------------------|--------------------|--------------------|
| 1963-67 ¹ | 32,000 | 32,000 | 1973 | 25,000 | 13,000 |
| 1968 | 10,000 | | 1974 | 25,000 | 15,675 |
| 1969 | 12,500 | 4,375 | 1975 | 30,000 | 12,000 |
| 1970 | 15,000 | 5,083 | 1976 ² | 37,500 | 20,000 |
| 1971 | 15,000 | 11,000 | 1977 | 30,000 | 15,000 |
| 1972 | 15,000 | 13,000 | | | |

¹ Aggregate.

² Includes transitional quarter.

Title I of this bill transfers the facilities program to the Department of Commerce. Title I also expands this program to provide federal support for the planning and construction of public telecommunications facilities.

The recommendation to transfer the facilities program from the Department of Health, Education, and Welfare to the Department of Commerce rests on a number of determinations. The program, as administered by HEW has not been given the priority or the resources that it requires with the result that the award of facilities grants often has been delayed until the end of the fiscal year. In addition, with the broadening of the purpose of the public broadcasting system from serving primarily instructional needs to serving more diversified educational and cultural needs, the program's location at HEW's Office of Education appears to be no longer appropriate.

This transfer also will consolidate telecommunications responsibilities within the executive branch which, pursuant to Reorganization Plan No. 1 of 1977, and the implementing Executive Order 12046, designated the Secretary of Commerce as the principal adviser to the President on matters relating to telecommunications policy.

In addition, the bill broadens the program to include nonbroadcast telecommunications technologies. The committee recognizes the fact that over-the-air broadcasting may not be the most efficient and economical means of extending delivery of noncommercial educational and cultural programs and services to all of the people of the United States. The Secretary of Commerce is directed to assess the short-term and long-term costs and benefits of alternate technologies in awarding funds for facilities construction.

The bill also establishes an authorization level of \$40 million for fiscal years 1979, 1980, and 1981, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities. The authorization level is raised \$10 million over the current level since facilities funds are to be made available to nonbroadcast as well as broadcast entities and to provide

support for startup costs for new communications entities. The purpose of expanding the program to include nonbroadcast facilities is to ensure that Federal funds are used to support the most efficient technical means to make publicly funded programing available to the widest possible audiences.

The facilities grant program that is envisioned would be flexible enough to allow a grantee to choose between the actual construction of new facilities and the leasing of private services where they exist (that is, leased access on a cable system). Such flexibility would avoid unnecessary duplication and provide incentives to the private sector. "Hybrid" systems utilizing a number of technologies would also be possible. The outcome might be, as some have suggested, to transform the public broadcasting station into a local public telecommunications center offering a number of services.

In addition, the bill requires that 25 percent of the funds available to the facilities program, or up to \$10 million per year, be designated for expanding and improving noncommercial radio broadcast facilities. The intent of this provision is to ensure that within 5 years, the reach of public radio's signals will be extended, at the least, on a par with those of noncommercial television. Currently, public radio's signals reach only 60 percent of the population, compared to 80 percent for public television, and 98 percent for commercial television and radio. Public radio's growth as an essential communications medium hinges, in the committee's judgment, on its ability to reach the listening public. It is the committee's clear desire that public radio service be extended to the 40 percent of the American population which cannot now receive it.

In testifying before the subcommittee, Frank Mankiewicz, president of National Public Radio, stated:

If there is one area which deserves attention above all others, I believe it is this fundamental need for additional public radio outlets. I see new stations as the building blocks of a firm foundation which must be in place if we are ever to build a solid and vital public radio service for the majority of Americans.

The committee subscribes to this view, and believes it should guide the use of funds under this section for public radio.

EDUCATIONAL BROADCASTING FACILITIES PROGRAM—HISTORY OF GRANT AWARDS
[Dollars in millions]

| Fiscal year | ETV activations | | | Expand/improve | | | Radio activations | | | Expand/improve | | | Totals | |
|----------------------|------------------|---------------|---------------|------------------|---------------|---------------|-------------------|------------------|---------------|------------------|---------------|---------------|------------------|---------------|
| | Number of grants | Federal funds | Average grant | Number of grants | Federal funds | Average grant | Number of grants | Federal funds | Average grant | Number of grants | Federal funds | Average grant | Number of grants | Federal funds |
| 1963-67 | 92 | \$19.98 | \$0.22 | 69 | \$11.99 | \$0.17 | (¹) | (¹) | --- | (¹) | --- | --- | 161 | \$31.97 |
| 1968 ² | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1969 | 7 | 2.01 | .29 | 6 | 1.10 | .18 | 2 | \$0.10 | \$0.05 | --- | --- | --- | 15 | 3.21 |
| 1970 | 11 | 2.90 | .25 | 10 | 1.84 | .18 | 9 | .52 | .06 | --- | --- | --- | 40 | 5.40 |
| 1971 | 12 | 4.27 | .36 | 18 | 4.96 | .27 | 12 | .81 | .07 | 15 | \$0.34 | \$0.03 | 57 | 11.00 |
| 1972 | 10 | 3.30 | .33 | 33 | 8.18 | .25 | 7 | .58 | .08 | 19 | .86 | .06 | 69 | 13.00 |
| 1973 | 8 | 3.29 | .40 | 40 | 7.90 | .20 | 10 | .89 | .09 | 20 | 1.00 | .05 | 78 | 13.00 |
| 1974 | --- | --- | --- | 41 | 11.08 | .27 | 4 | .34 | .08 | 23 | 1.38 | .06 | 74 | 15.68 |
| 1975 | 5 | 2.67 | .48 | 36 | 8.64 | .24 | 10 | .73 | .07 | 11 | 1.43 | .04 | 62 | 12.00 |
| 1976 | --- | --- | --- | 37 | 8.17 | .22 | 9 | .94 | .10 | 21 | 1.30 | .06 | 73 | 12.98 |
| 1977 | 7 | 2.42 | .35 | 40 | 7.89 | .20 | 8 | .99 | .12 | 45 | 2.69 | .06 | 100 | 14.00 |
| Total ^{1,3} | 164 | 45.60 | --- | 330 | 71.75 | --- | 71 | 5.90 | --- | 164 | 8.94 | --- | 729 | 132.24 |
| Total ^{1,4} | 72 | 25.62 | --- | 261 | 59.76 | --- | 71 | 5.90 | --- | 164 | 8.94 | --- | 568 | 100.27 |

¹ Not available.² No funds appropriated this fiscal year.³ Since 1963.⁴ Since 1963.

Note: Currently there are 254 applications pending which request \$55,400,000 in Federal funds.
Source: DHEW.

Telecommunications demonstration program

The telecommunications demonstration program was established in June, 1976, with the enactment of an amendment to the Communications Act. The purpose of the program, which is administered by the Department of Health, Education, and Welfare, is to demonstrate the use of nonbroadcast telecommunications technology for the delivery of health, education, and social services. Emphasis in the program is on the needs of the user, rather than the technology itself. The program seeks to identify particular social service delivery goals which can be achieved cost-effectively using nonbroadcast media; to demonstrate these uses and draw national attention to them; and to facilitate their adoption by providers of health, education, and social services as part of their regular operations.

The program has been funded at \$1 million for fiscal years 1977 and 1978.¹ In establishing the program, the committee stated that it would increase the authorization once it was satisfied that a detailed plan had been created for distributing funds. Unfortunately, to date, HEW has failed to develop such a plan and, as a result, the original funding limit has been retained. The committee does not intend to continue funding for this program unless substantial progress is made within the next year.

Corporation for Public Broadcasting

The Corporation for Public Broadcasting is a private, independent, nonprofit corporation established pursuant to title II of the Public Broadcasting Act of 1967 (47 U.S.C. 396-399) and under the terms of the District of Columbia Non-Profit Corporation Act.

CPB operates under a bipartisan board of directors consisting of 15 members. Members of the board are appointed by the President by and with the advice and consent of the Senate for staggered terms of 6 years. No more than a simple majority of the CPB Board may be members of the same political party.

Under the Public Broadcasting Act of 1967 the Corporation for Public Broadcasting has four principal purposes. They are to (1) assist in the establishment and development of stations, (2) assist in the establishment and development of one or more systems of interconnection for such stations, (3) assist in the establishment and development of one or more systems of public broadcasting stations, and (4) act so as to assure the maximum freedom of noncommercial educational broadcasting systems and stations from interference with or control of program content or other activities.

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION AND APPROPRIATIONS HISTORY

[Millions of dollars]

| Fiscal year | Author-ization | Appro-riation | Fiscal year | Author-ization | Appro-riation |
|-------------|----------------|---------------|-------------------------|----------------|---------------|
| 1969..... | 9 | 5.0 | 1975..... | 65 | 62.0 |
| 1970..... | 20 | 15.0 | 1976 ¹ | 110 | 87.5 |
| 1971..... | 35 | 23.0 | 1977..... | 103 | 103.0 |
| 1972..... | 35 | 35.0 | 1978..... | 121 | 107.2 |
| 1973..... | 45 | 35.0 | 1979..... | 140 | 120.2 |
| 1974..... | 55 | 47.5 | 1980..... | 160 | 152.0 |

¹ Includes transitional quarter.

¹ The authorization for fiscal year 1978 was pursuant to the contingent extension of the education programs, Public Law 93-380, sec. 506(a)(2)(B).

Public Broadcasting Service/National Public Radio

Soon after it became operational (in 1969), CPB together with public television licensees established the Public Broadcasting Service, an independent corporation whose principal purpose was to distribute programs to public television broadcasting stations in the United States. A somewhat similar organization, National Public Radio (NPR), became operational in 1971. NPR is made up of CPB-qualified public radio stations.

In early 1973, a thorough reassessment of the structure of public broadcasting was undertaken by CPB and public broadcasting stations. As a result of that reassessment, in March 1973, the Public Broadcasting Service was reconstituted as a nonprofit membership corporation which today represents 153 public television licensees which operate 270 public television stations. Although National Public Radio has some similarities to PBS—both are membership organizations managed by the members, and both draw from local sources for their programs—there are two basic differences: NPR produces programs, while PBS does not; PBS obtains programming from its member stations and a variety of producing entities which are partially funded by CPB, while NPR is principally funded by CPB and supplements its production by contracting with local stations and other producing agencies for programs it will carry.

PUBLIC TELEVISION LICENSEES AND STATIONS BY TYPE OF LICENSEE: MARCH 1977

| Type of licensee | Number of licensees | Number of stations |
|----------------------|---------------------|--------------------|
| All types..... | 153 | 270 |
| Community..... | 59 | 74 |
| University..... | 53 | 76 |
| Local authority..... | 18 | 19 |
| State..... | 23 | 101 |

CPB-QUALIFIED PUBLIC RADIO STATIONS BY TYPE OF LICENSEE: MARCH 1977

| Type of licensee | Number of stations | Percent |
|----------------------|--------------------|---------|
| All types..... | 182 | 100.0 |
| Community..... | 35 | 19.2 |
| University..... | 116 | 63.7 |
| Local authority..... | 24 | 13.2 |
| State..... | 7 | 3.9 |

Financing of public broadcasting

In 1975, Congress instituted a system of 5-year advance authorizations for public broadcasting which included 2-year advance appropriations. At that time, it was the committee's hope that the multiyear funding would (1) help to minimize Government scrutiny or influence on programing, and (2) enable the Corporation and local stations to undertake advance program planning with some assurance as to the level of Federal funding available in the foreseeable future.

This bill continues the present system of multiyear authorizations for the Corporation for Public Broadcasting, and endorses the practice of advanced funding through the appropriations process. Although the Corporation has operated for only 2½ years under the long-term

authorization/advance-appropriation system, the committee believes that its benefits are becoming apparent. In addition to encouraging long-term planning by the elements of the system, the predictability of funds has enabled the Corporation to commit funds to the construction of a satellite interconnection system which should enhance greatly the diversity and flexibility of public broadcasting. The bill, therefore, reauthorizes the activities of the Corporation for 3 years (fiscal years 1981, 1982, and 1983) and increases funds authorized for these purposes. In fiscal year 1981, a total of \$180 million is authorized as compared to \$160 million in 1980. In fiscal years 1982 and 1983, the authorization ceilings are increased to \$200 million and \$220 million respectively.

The 1975 Public Broadcasting Financing Act also established the principle that the level of Federal support should be based on the non-Federal income of the system. This "matching principle" is based on the belief that the amount of non-Federal support generated for a variety of sources provides a measure of the effectiveness of the system in meeting audiences needs. Moreover, by establishing the ratio of the match, Congress is able to determine the general level of the Federal appropriations; and more importantly, to determine the share of the total that is appropriate for the Federal Government.

The matching ratio established in 1975 was \$2.50 (non-Federal) to \$1.00 (Federal). This ratio was felt to be appropriate since there was a need for establishing a broad base of support for the system and for encouraging non-Federal support. However, as the authorization ceilings increase, it becomes more difficult for the public broadcasting system to earn the full authorization by raising non-Federal funds. This has led to an increased focus of the stations' resources and energies on fund-raising at the expense of programing. Therefore, the committee has recommended that, beginning in 1981, the match should be lowered to \$2 (non-Federal) to \$1 (Federal). This will help to reduce the fund-raising activities of the system, while maintaining the diverse funding principle that is essential to its freedom.

SECTION-BY-SECTION EXPLANATION OF H.R. 12605, AS REPORTED

TITLE I

Section 101

(a) The heading for part IV of title III of the Communications Act of 1934 is amended to read as follows:

PART IV—Assistance for Public Telecommunications
Facilities; Telecommunications Demonstrations; Corporation
for Public Broadcasting

(b) The heading for subpart A of part IV of title III of the Communications Act is amended to read as follows:

SUBPART A—Assistance for Public Telecommunications
Facilities

(c) Section 390 of the Communications Act is amended to include assistance for the construction and planning of "public telecommunications facilities." While extending the delivery of educational programs for instructional purposes remains one of the aims of the facilities program, the word "public" is used in place of the word "educational," to connote the broader purpose of the program, that is, to assist in

constructing facilities to deliver noncommercial educational and cultural services "to as many citizens of the United States as possible." In recognition of the fact that over-the-air broadcasting may not be the most efficient and economical means of extending delivery of public television and radio services to all citizens, section 390 is amended to expand the types of facilities whose construction may be financed. Accordingly, the word "telecommunications" is used in place of the term "television and radio broadcasting."

In addition to expanding the program for the construction of public telecommunications facilities, section 390 authorizes the provision of assistance in the planning, as well as the construction of public telecommunications facilities.

Three program objectives are stated in section 390:

(1) Extend delivery of public telecommunications services to as many citizens of the United States as possible, by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies. As used here, the term "public telecommunications services" is meant to connote, for the most part, noncommercial educational and cultural radio and television programs. In addition, the term includes other noncommercial instructional or informational material that may be transmitted by means of electronic communications, such as closed captioning for the deaf or instruction transmitted via SCA transmitting and receiving equipment. The achievement of this objective will require support of the construction of facilities that will broaden the reach of existing and new programs and services that are carried on the publicly funded telecommunications system.

(2) Increase public telecommunications services and facilities available to and owned by minorities and women. Because women and minorities traditionally have been underrepresented in the ownership of telecommunications media, and underserved by such media, another objective of the program will be to increase ownership opportunities for women and minorities in publicly funded communications facilities.

(3) Strengthen the capability of existing public television and radio stations to provide educational and cultural services to the public.

Section 102

Section 391 of the Communications Act is amended to provide authorizations of \$40,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities.

Section 391 is further amended by providing that funds appropriated in each fiscal year shall remain available until expended for projects whose applications have been approved by the Secretary in that fiscal year.

Section 391 is also amended to provide that the funds appropriated under this subpart may be used by the Secretary to cover the cost of administering the program.

Section 103

Section 392 of the Communications Act is amended to require applicants for construction grants to submit 5-year plans outlining applicants' projected facilities requirements and the projected costs thereof. The purpose of this requirement is to assist the Secretary in evaluating the long-term facilities needs and associated costs of the public telecommunications system.

The section is also amended to allow nonprofit educational groups other than those "organized primarily to engage in public broadcasting" to apply for facilities grants. In addition, section 392 is amended to require that applicants provide assurances to the Secretary that they will make the most efficient use of the grant.

Section 392 is further amended to authorize the Secretary of Commerce to make planning grants of up to 100 percent of the amount the applicant seeks for planning studies. Studies funded under section 392 must be made available to the Secretary of Commerce.

Section 392 is also amended to authorize the Secretary of Commerce to establish rules and regulations for approving grants. The Secretary is also required to take affirmative steps to notify minorities and women of the availability of funds under this section, and to give special consideration to applications which increase female and minority ownership of and participation in public telecommunications facilities and services.

Section 392 is further amended by adding provisions relating to financial records of recipients of assistance under this section. (These provisions were formerly contained in section 393.)

Section 392 is further amended to provide that the Secretary of Commerce is authorized to administer the grants made before, on, or after the enactment of this Act.

Eliminated from section 392 are provisions requiring notice of grant applications to state educational television and radio agencies, setting an 8½-percent limit on grants to applicants in any state or territory, and establishing criteria for awarding facilities grants. (The latter provision is replaced by the criteria provisions set forth in section 104.) Section 392A, which pertains to telecommunications demonstrations is eliminated. (These provisions are now contained in subpart B.)

Section 104

Section 393 of the Communications Act is amended by adding a provision requiring the Secretary of Commerce to consult with the Corporation for Public Broadcasting noncommercial telecommunications entities, and as appropriate with others, in establishing criteria for awarding planning and construction grants. Such criteria must be consistent with the objectives set forth in this subpart, and must be designed to achieve the following:

- (1) The provision of new telecommunications facilities to extend service to areas presently unserved by public broadcasting;
- (2) The expansion of the service areas of existing public telecommunications entities;
- (3) The development of public telecommunications facilities owned by and available to minorities and women; and
- (4) The improvement of the capabilities of existing public broadcast stations to provide educational and cultural services.

Section 393 is further amended to specify that at least 75 percent of the funds appropriated each year must be made available for the creation of new noncommercial telecommunications entities and the expansion of the service areas of existing noncommercial telecommunications entities. In choosing among applicants, the Secretary is required to compare the advantages of alternative technologies on the basis of both short-term and long-term costs and benefits. These provisions are

designed to facilitate the expansion of the public telecommunications system using the most economical means available.

Section 393 is also amended by adding a provision which states that not less than 25 percent of the funds appropriated each year for facilities must be available for the expansion and development of noncommercial radio facilities. Noncommercial radio stations became eligible for facilities grants in 1967, and they have traditionally received a small percentage of the funds. As a result, the public radio system now reaches only about 60 percent of the population. Representatives of National Public Radio estimate that about \$75 million is required to complete the public radio system. For this reason, and because the value of public radio has been widely acknowledged, it was determined that a specific portion of the facilities funds should be earmarked for radio.

Section 393 is further amended by eliminating all provisions relating to financial records (these are now contained in Sections 392 and 395(h)).

Section 105

Section 394 of the Communications Act is amended by adding a provision requiring the Secretary of Commerce, in consultation with appropriate parties, to develop a long-range facilities plan. The plan must include a detailed 5-year projection of the broadcast and non-broadcast facilities required to meet the objectives of the program, and the expenditures necessary to provide those facilities.

Section 394, as amended, requires that the plan be updated each year and submitted concurrently to the President and the Congress.

Section 394 is further amended by eliminating the provision relating to the Secretary of HEW's rulemaking authority (this is now contained in Section 395).

TITLE II

Section 201

Part IV of title III of the Communications Act of 1934 is amended by striking out the contents of section 395, and by creating a separate subpart for telecommunications demonstrations.

The heading for subpart B of part IV of title III of the Communications Act is amended to read as follows:

SUBPART B.—Telecommunications Demonstrations

(Former subparts B and C are redesignated as subparts C and D, respectively.)

Incorporated within subpart B are the contents of former sections 392A, 393, 394, and 395. Former sections 392A(a), redesignated and incorporated as sections 395 (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).

Former section 392A(h) is redesignated and incorporated as section 395(k), and amended to authorize to be appropriated \$1 million for telecommunications demonstrations in fiscal year 1979.

TITLE III

Section 301

Section 396(a) of the Communications Act of 1934 is amended by substituting the word "public" in place of the term "noncommercial educational" wherever that term appears. In paragraph (2), the term

“radio and television” is replaced by the word “telecommunications.” A new paragraph (6) is added relating to the growth and development of nonbroadcast technologies. Paragraph 7 (formerly paragraph (6)) is amended to direct the creation of a private corporation to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference or control. These amendments are intended to connote that activities carried out under subpart C are for the benefit of the entire community, and may include both broadcast and nonbroadcast technologies.

Section 302

This section makes a technical amendment to section 396(d)(1) of the Communications Act.

Section 303

Section 396(e)(1) of the Communications Act is amended by adding a provision which limits the annual salaries of officers and employees of the corporation to not more than level I of the Executive Schedule under section 5312 of title 5, U.S.C.

Section 304

Section 396(g)(1) and 396(g)(2) of the Communications Act are amended by using the word “public” in place of the term “noncommercial educational” wherever such term appears. These sections are further amended by incorporating the term “noncommercial telecommunications facilities” into each subparagraph that refers to public broadcast stations, in order to take account of nonbroadcast means of delivering public television or radio services.

Section 396(g)(1)(A) is amended by adding the words “diversity, creativity, excellence, and innovation” to the description of the programs to be developed and made available under this subpart.

Section 396(g)(2)(B) is amended to broaden grant eligibility requirements to include systems of public broadcast stations, noncommercial telecommunications entities, and independent producers and production entities. This subparagraph is further amended to require that, to the maximum extent possible, the corporation must use panels of experts to evaluate program proposals.

The committee is requiring the Corporation to use panels of experts in evaluating programming grant proposals “to the maximum extent possible.” The committee is concerned about the unresolved issue of the insulation of programming from improper political pressures. It is disturbed by reports that members of the CPB Board—who are political appointees, nominated by the President—would routinely review scripts and pilots to determine if funding should be extended. The requirement that CPB form panels of experts is designed to minimize such intrusion.

The Committee is also concerned by the testimony of independent producers that they were treated arbitrarily by a system which has several points of access. Independent producers have been at times shuttled between CPB, PBS, and the stations in their efforts to get a fair hearing on their programming proposals. Such treatment is unfair, and should be corrected. Accordingly, the committee views the need to provide some rational procedures for review of programming material as essential to the effective operation of the system. The expert review mechanism is designed to address this concern.

The use of such panels is intended by the committee to be the rule, and not the exception, to the process of awarding programming grants. The committee's concern that they be used most, if not all, of the time, is to allow CPB the discretion to fund, under pressing circumstances, the coverage of special events of an imminent nature, such as certain public affairs or cultural events. But the committee encourages CPB to anticipate needs of such immediacy, and designate a review panel to review these matters as well.

The provisions of section 396(g)(2)(G) are eliminated, and section 396(g)(2)(H) is added to authorize CPB to provide assistance for the use of nonbroadcast technologies for the distribution of noncommercial television or radio programs. This is in conformance with the broadening of the Facilities Program to include nonbroadcast technologies.

Section 396(g)(2)(I) is added to give CPB the authority to take such other actions as may be necessary to carry out its purposes.

Section 396(g)(3) is amended by adding "public telecommunications entities" to the list of enterprises that the Corporation is prohibited from owning or operating, and by adding that CPB also is prohibited from producing, acquiring, scheduling, or distributing programs. The latter amendment is designed to clarify the role of CPB as system planner and overseer rather than day-to-day operator of the public broadcasting system. Presently, the Corporation does not perform any of these functions, but does make grants or contracts with a variety of other entities to assist in the production of programs. Business prudence may require that CPB provide for the acquisition of distribution and broadcast rights to programs produced with its assistance. However, since the corporation is barred from owning or operating any distribution system, these rights must be acquired on behalf of public telecommunications entities. Nothing in this subsection is intended to impair CPB's ability to secure rights not related to the distribution of programs in exchange for assistance, nor to preclude the assignment of such rights, in whole or in part, as CPB may deem prudent.

A new subsection 396(g)(4) is added which requires that all meetings of the CPB Board of Directors be open to the public. This provision is consistent with the requirements of subsection (k)(4) of this section, and applies to meetings of committees of the board and advisory committees, in addition to board meetings.

A new subsection 396(g)(5) is added which requires CPB to study the manner in which to include the value of personal services of volunteers in computing the level of non-Federal financial support received by public broadcast entities. CPB must report its findings to the Congress within 120 days of enactment of this provision. The study required by this subsection is meant to be concluded prior to the certification of volunteer services as non-Federal support, pursuant to section 401 of this act. The study should include procedures to be followed by public broadcast entities in valuing and recording in-kind contributions of volunteers. It is the committee's intention to review the corporation's findings and proposed procedures so that its concerns about potential abuse of the volunteer inclusion may be satisfied prior to certification of in-kind services of volunteers.

A new subsection 396(g)(6) is added which requires CPB to develop a 5-year plan for the development of public television and radio programming.

Section 305

Section 396(h) of the Communications Act is amended by adding a provision providing that public telecommunications entities shall have priority for the use of interconnection systems funded under this part. Remaining capacity on interconnection systems must be made available to other persons for the transmission of noncommercial educational and cultural programs to public telecommunications entities.

Section 396(h) also provides that the corporation, in consultation with the persons responsible for managing the interconnection systems, shall establish reasonable terms and conditions for use of the interconnection systems by persons other than public telecommunications entities, and that any charges made for such use may not exceed the costs that are directly attributable to transmitting the material.

This provision is intended primarily to insure that entities other than public TV and radio stations (such entities include independent producers, university-based production centers, et cetera) will have access to unused capacity on the satellite interconnection systems for public television and radio for the purpose of transmitting programing and related material directly to the stations. The Corporation, in consultation with the system managers, is directed to develop (1) procedures and priorities for allocating the channel capacity that is not being used by the public telecommunications entities, and (2) standards to be used in determining the charges for use of the satellite interconnection system by nonpublic telecommunications entities. Such charges are limited to the marginal costs associated with transmitting the material, and should not exceed the rates paid by public telecommunications entities for occasional use of the satellite interconnection system. Nothing in this section shall be construed to guarantee access by the user to the Earth receiving stations, or to guarantee that the material transmitted to the public telecommunications entities will be broadcast or otherwise disseminated to the public.

Section 306

Section 396(i) of the Communications Act is amended to require that the Corporation's annual report include (1) an inventory of funds distributed by Federal agencies to public broadcasting and other public telecommunications entities during the preceding fiscal year, and (2) a summary of the annual report provided to the Secretary of HEW pursuant to new section 398.

These two new elements of the annual report will assist in Congressional oversight and coordination of Federal spending on public telecommunications and the improvement of equal employment opportunities in public telecommunications.

Section 307

Subsection 396(k) of the Communications Act is amended to continue and increase the levels of long-term Federal funding of public telecommunications and to make a number of changes in the financial operations of the Corporation.

Paragraph (1) of subsection 396(k) would authorize for appropriation, for fiscal years 1981, 1982, and 1983, amounts equal to 50 percent of the total non-Federal financial support received by public broadcasting entities during each second-preceding fiscal year. The

appropriation for each fiscal year could not exceed the following ceilings: \$180 million in fiscal year 1981; \$200 million in fiscal year 1982; and \$220 million in 1983. Amounts appropriated would remain available until expended.

Paragraph (2) states that the funds shall be disbursed by the Secretary of the Treasury on a quarterly basis, in such amounts as the Corporation certifies will be necessary to meet its financial obligations in the succeeding quarter. Nothing contained in this paragraph should be construed as giving the Secretary of the Treasury any authority to oversee the Corporation or its quarterly certification of fiscal needs. The Treasury's role is intended to remain limited to disbursement of funds in accordance with the corporation's quarterly certification. This paragraph also would prohibit the use of appropriated funds for entertaining government officials or employees. Additionally, the paragraph is amended to take account of the fact that some public broadcasting entities operate, for accounting purposes, on a fiscal year that is different from the Federal fiscal year.

Paragraph (3) of subsection 396(k) is amended to direct the Corporation to establish an annual budget according to which it will make grants to, or contracts with, entities outside of the Corporation (for example stations, NPR, PBS, independent producers). Beginning in fiscal year 1981, the budget must consist of at least 95 percent of the annual appropriation. In fiscal year 1981, the Corporation may spend no more than 5 percent of its annual appropriation on internal administrative costs and salaries. In fiscal years 1982 and 1983, the Corporation may expend no more than 105 percent of the amount derived for the preceding year for its internal administrative costs, including salaries.

Paragraph (3) of subsection 396(k) is further amended to require that a significant portion of the appropriated funds must be used for funding the production of television and radio programs and that a substantial amount of this portion must be reserved for distribution to independent producers and production entities for the production of programs. This provision is intended to encourage the Corporation to increase the diversity of programming sources by supporting the work of producers who are not employed by public telecommunications entities.

Paragraph (3) of subsection 396(k) also is amended to direct the Corporation to take into account the increasing financial needs of radio in determining the division of funds between radio and television. No particular percentage is specified because it is intended that the Corporation should retain the flexibility to assess and respond to needs which may change from year to year.

Under the new facilities program, the Committee is authorizing nearly twice as much for radio facilities over the next 3 years as was appropriated over the last 8 years combined. The committee's amendment so section 396(k)(3)(B)(iii) provides that the Corporation is to insure a level of funding for radio programming commensurate with the expansion in facilities. The two must be viewed as directly linked. Accordingly, it is the committee's hope that over the duration of this legislation the corporation will increase (to approximately 25 percent) the share of its funds it provides public radio through both the CSG's and the programming grants to NPR and other producing entities.

Paragraph (4) of section 396(k) is amended to require that all meetings of the governing and advisory bodies of the Public Broadcasting Service, National Public Radio, and the licensees or permittees of public broadcast stations receiving funds from CPB, must be open to the public, except when such meetings deal with personnel matters, litigation, labor or contract negotiations, the development of competitive bid proposals, trade secrets, or commercial or financial information obtained on a confidential basis. If a meeting is closed, the organization is required to make available a written statement including the reasons for closing the meeting, the general subject matter of the meeting, and a list of persons who attended the meeting.

Paragraph (5) is amended to require that the annual financial and audit reports submitted pursuant to section 396(1)(3)(B) as amended, by each licensee of a public broadcast station must be available for public examination.

Paragraph (6) of subsection 396(k) sets forth procedures and criteria for the distribution of discretionary funds to public television and radio stations, pursuant to paragraph (3). The corporation is required to consult with public radio and television licensees in determining the criteria for division and distribution of the funds. It is the intent of this paragraph that any such determination be reached only after a process of consultation designed to achieve agreement among the three parties in interest: the Corporation, the radio licensees and the television licensees. The provisions of existing law regarding the distribution of discretionary funds to public broadcast stations are otherwise continued, except that several new criteria are set forth to be used by the Corporation in determining the amount of funds, above the basic grant, to be distributed to each station. These new criteria are as follows: (1) encourage innovative approaches, both technical and programming, to reach new audiences; (2) encourage responsiveness to the community served by each station; (3) encourage cost efficiencies, particularly in increasing programming expenditures in relation to administrative costs; (4) encourage programs to train women and minorities and to increase their participation in public broadcasting; and (5) encourage the use of volunteers by stations.

Paragraph (6) as amended is intended to assure that station licensees will play a significant role in the decisionmaking processes relating to distribution of funds to stations. The Corporation would be required to consult with licensees and permittees (including their authorized representatives) in (a) apportioning the funds between radio and television, (b) determining the amount of the basic grant to stations, (c) establishing eligibility criteria for radio stations, and (d) establishing the criteria for apportioning additional grants among television and radio stations.

The primary change made in existing law was to add the five new criteria for the distribution of these additional grants known as community service grants (CSG). The committee found that while radio CSG's are distributed on the basis of a formula designed to encourage several goals, television CSG's are now distributed almost solely according to the amount of non-Federal funds raised by a station. Thus, the sole incentive created by Federal statute and Federal funds is fundraising. Not surprisingly, the committee heard extensive evidence of major increases in the amount of attention paid to fundraising by local stations, both in time and resources.

While the stimulation of non-Federal financial support is a laudable objective, it should not be the sole one, nor should it be the sole incentive given to the stations through the device of CSG's. Rather, it is appropriate to provide other statutory incentives to encourage the stations to meet the needs of the audiences they serve.

These added incentives support important objectives, and have the added benefit of rewarding activities initiated by the stations themselves, at their own discretion, rather than imposing particular requirements on the stations. The necessity of discretionary funds for the stations is recognized, and it is not the intent of this provision that CPB establish a discretionary system which would give the Corporation more extensive control over the operations and policies of the stations than it has now. This has not been the case with CSG's for radio stations, and there is no reason why it should be the case with television grants.

The following is an explanation of the new criteria:

(1) CSG's should provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve. CSG's should reflect the size of populations served, and the relative ability of stations to raise funds from their communities. Some stations may be located in communities, or may serve audiences, which do not have the financial potential to allow the stations to compete in fundraising with other stations.

(2) Stimulate new sources of non-Federal financial support. This criterion is drawn from existing law and is believed to be important. As explained above, however, it is the intention that the role of local fundraising be deemphasized in the distribution of discretionary funds to the stations.

(3) Basic grants to each radio station. No change has been made in existing law.

(4) Encourage innovative approaches, both technical and programming, to reaching new audiences. Extending the reach of public broadcasting to serve larger populations should be a goal of public broadcasting. The emphasis of this criterion is on technical extension of the signal, (for example, by interconnecting with a cable television system or by the use of translators). However, it is also intended to encourage new and innovative approaches to programming, perhaps through new categories of programs which would reach out to potential audiences who do not presently tune to public broadcasting. In adding this criterion, the committee wishes to affirm its intent that CPB not involve itself in local stations' decisions regarding program or series content.

(5) Encourage responsiveness to the community served by each station. As public institutions, public broadcasting entities have a responsibility to respond to the needs of their communities. Many stations have made significant efforts in this regard, and such efforts should be encouraged. Such activities as the existence and implementation of a public participation plan, including advisory committees broadly representative of the communities served, and significant coverage of local public affairs should qualify the station for additional CSG funds.

(6) Encourage cost efficiencies, particularly in increasing programming expenditures in relation to administrative costs. While a certain level of administrative expense is of course necessary, the primary

purpose of public broadcasting is program production. Therefore, some method for rewarding the stations for increased allocations for programing and decreased administrative budgets should be devised so that the stations will have an incentive for operating as economically as possible, thereby freeing up funds for programing.

(7) Encourage programs to train women and minorities and to increase their participation in public broadcasting. Application to CPB for a training grant, altering employment percentages, the existence of a comprehensive affirmative action program and other such actions could be the component parts of this criterion. Although some progress in this area has been made by public broadcasting, the record is still unsatisfactory.

(8) Encourage the use of volunteers by stations. Because the stations will be permitted to include a portion of the in-kind contributions of volunteers in the total of non-Federal contribution for purposes of the match, this criterion is not intended to be given a significant weight independently of criterion (2).

In order to preserve the discretionary nature of community service grants and to reduce the possibility of CPB interference in station decisionmaking, it is intended that CPB shall attempt to quantify the preceding criteria to the maximum extent possible, and develop a formula for determining the amount of each CSG. Portions of the criteria that cannot be quantified should not be accorded significant weight in calculating the level of CSG's.

Subsection 396(k)(8) is added, to incorporate the provisions relating to the use of station discretionary funds (community service grants). These provisions were formerly contained in subsection 396(k)(6)(A).

Paragraph (9) is added to subsection 396(k) and requires that each public broadcast station establish a community advisory board as a condition of receiving funds from the Corporation. The membership of the board should be broadly representative of the communities served by each station. The purpose of the board is to advise the station on the programing and service needs of the community and to review the station's program and policy goals. It is not intended that the advisory boards shall have any control over the day-to-day management or operation of the station.

Paragraph (10) is added to subsection 396(k), and limits the annual salaries of officers and employees of the Public Broadcasting Service and National Public Radio to not more than level I of the Executive Schedule.

Section 308

Section 396(1)(3) of the Communications Act of 1934 is amended to require CPB to develop, in consultation with GAO, the Financial Accounting Standards Board, and others as appropriate, a uniform system of accounts to be used by all noncommercial broadcasting licensees or permittees receiving funds from CPB. Such system must be designed to account fully for all funds received and expended for public broadcasting purposes.

Section 396(1)(3) is further amended to require any noncommercial broadcast licensee receiving funds under this subpart: (1) to keep its books, records, and financial accounts in such form as required by CPB; (2) to undergo an annual audit by independent certified audi-

tors; and (3) to furnish annually to CPB a copy of the audit report and other information on financial operations that CPB may require.

Section 396(1)(3) continues for all recipients of CPB assistance, the existing provisions relating to financial records and audit. The provision relating to audits by CPB or the Comptroller General contained in section 396(1)(3)(B) is redesignated as section 396(1)(3)(d) and the word "related" is used in place of the word "pertinent" in this subsection.

These provisions are intended to improve the level of financial accountability at the public broadcast stations. Because the Corporation is fully accountable to the public and to the Congress for its use of public funds, there is a need to insure that station accounts can provide the Corporation with full and accurate information relating to the disposition of the funds received from CPB. In addition, because the level of Federal appropriations is based entirely on non-Federal support, it is imperative that station records of non-Federal income be maintained accurately and in accordance with clear and uniform standards. In order to further insure that station financial records are maintained in a satisfactory manner, each station will be required to undergo an independent audit each year. This section is not intended to authorize GAO, CPB, or an independent auditor to review or otherwise pass judgment upon station decisions relating to program content.

Section 309

Section 398(a) of the Communications Act of 1934 is amended by replacing the term "educational television broadcasting" with the term "public telecommunications."

Section 398 is further amended to provide that equal opportunity in employment (including appointments to governing or advisory bodies) shall be afforded to all persons by all public telecommunications entities receiving funds pursuant to this subpart, and that "no person shall be subjected to discrimination in employment by any such recipient on the grounds of race, color, religion, national origin, or sex." The Secretary of HEW is charged with enforcing this provision.

Section 398 is further amended to require CPB to incorporate into each grant or contract with any public telecommunications entity a statement indicating that the recipient will comply with the provisions of this section and the rules and regulations adopted by the Secretary of HEW. Each recipient is directed to provide CPB with information necessary for CPB to satisfy itself that the recipient is in compliance, except that CPB may not withhold funds on this basis unless the Secretary makes a final determination of noncompliance. CPB must monitor the equal employment opportunity practices of public broadcast licensees and other public telecommunications entities throughout the duration of each grant or contract.

Section 398 is further amended to require that the Corporation, based upon its information collection and monitoring activities, must provide to the Secretary of HEW an annual report in such form and containing such information as the Secretary may require. CPB must submit a summary of the report to the President and the Congress. Nothing contained in this paragraph should be construed as authorizing the Corporation to carry out on-site compliance reviews of any public telecommunications entity.

Section 398 is further amended to require that whenever the Secretary makes a final determination that the recipient is not in compliance with the provisions of this section, the Secretary must notify the recipient within 10 days of this finding. Unless the recipient corrects the violation or enters into an approved compliance agreement within 120 days of this notification, the Secretary must direct the Corporation to reduce or suspend funds. The Corporation must comply with such directives by the Secretary.

TITLE IV

Section 401

Section 397 of the Communications Act is amended to revise the definitions section in the current act, in order to make such definitions consistent with the provisions of the act, as amended. In addition, the definition of "non-Federal financial support" is amended to delete the former exclusion of personal services of volunteers. However, the value of such services for purposes of matching Federal funds may not exceed 5 percent of each station's total non-Federal financial support in each fiscal year.

Section 402

The contents of section 399 of the Communications Act are deleted, and a new section 399 is added which provides no that public telecommunications entity may support or oppose any candidate for political office.

Section 403

This section provides that this act shall take effect on October 1, 1978, except that provisions of sections 102 and 201, and the provision of section 396(k)(1) of the Communications Act (as amended by section 307), shall take effect on the date of enactment.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

During the 1st session of the 95th Congress, the Subcommittee on Communications held 3 days of oversight hearings on public broadcasting in addition to 3 days of hearings on this legislation. The committee has not received an oversight report with respect to public broadcasting from either its own Subcommittee on Oversight and Investigation or the Committee on Government Operations. In October of 1977 the General Accounting Office undertook a study of the primary public broadcasting institutions. Although its final report is not yet complete, GAO has made its preliminary findings available to the Subcommittee on Communications.

By means of its oversight activities, the committee has continued to review the progress of the public broadcasting system. Whether that "progress" is measured in terms of audience size, awards for program excellence, or growth in financial support, it is clear that significant forward strides have been achieved. For example, the weekly reach of public TV has increased from 34 percent of TV homes a year ago to 42 percent in February of 1978. Public TV is now reaching 31 million homes each week, an increase of 7 million homes in less than a year. Public radio listening also has risen dramatically in the past year, stimulated by the coverage of the Senate's Panama Canal

Treaty debates. In 1977 public broadcasting raised \$344 million from non-Federal sources—an increase of \$41 million over 1976. Recent public television programs and series have earned the Dupont-Columbia Award for broadcast journalism, Emmy Awards, Peabody Awards, and also an Academy Award for a short film produced by KCET in Los Angeles.

As a result of this rapid growth, public broadcasting stands today at another major turning point in its development. The evidence is all around us. A second Carnegie Commission has been appointed to study new directions for public broadcasting in the future. Just as the first Carnegie Commission found that it had overlooked the important contributions of noncommercial radio, the current Commission is realizing that it cannot limit the scope of its investigation to public broadcasting alone, but must consider all modes of communications technology.

Modern communications technologies and mature organizations at the local, regional, and national levels will permit more diversified, flexible program schedules. It has also expected that satellite interconnection and the availability of multichannel distribution will encourage the development of new types of programs, including those aimed at regional or nationwide "communities-of-interest" whose needs are not served by commercial broadcasting.

Early in 1978, public television began to shift to a new satellite interconnection system, thereby increasing by a factor of 4 the number of signals that can be sent out to the stations. A satellite interconnection system for radio is now in the planning stage. Cable television translators, videodiscs, and cassettes all promise to broaden the reach of publicly funded programing and services to schools and homes. In addition, public TV and radio stations are growing in strength and independence, and perhaps outgrowing the centralized control that has characterized the system for the last decade. The problem ahead is how best to adapt the present system to the needs and opportunities of the future.

Clearly, there is much to be done in order to achieve a strong and independent public telecommunications system that is responsive to the needs and interests of the American public. For this reason, the committee, through its Subcommittee on Communications, has included public broadcasting in its comprehensive review of telecommunications policy which it has undertaken during this Congress. Fundamental and complex questions of system structure, the roles of the national organizations, financing, and insulation of program content from political interference have been deferred until that comprehensive review has been completed, so that all of the many interests involved will have the time and the opportunity to make their views known.

The purpose of this legislation then is to maintain the advance-year funding for the system and to address certain immediate concerns in the areas of public participation and accountability, equal employment opportunities, financial management, integration of nonbroadcast technologies into the system, and dedication of increased resources to programing. While the bill's provisions in each of these areas cannot, in and of themselves, solve the problems, the legislation should provide public broadcasting and the public it serves with the tools necessary to address each of these concerns more effectively.

In addition to pursuing its comprehensive review of communications policy, the Committee intends to engage in oversight of public broadcasting on at least an annual basis. The committee believes that the following findings and recommendations will assist in measuring the system's progress toward its goals.

Programing

The committee believes strongly that the program content of public broadcasting should be strictly insulated from congressional oversight. Nonetheless, such questions as the amount and diversity of programing offered by the system, and the openness, efficiency, and accessibility of the program funding process are appropriate areas of congressional inquiry.

Public broadcasting's inability to produce an adequate amount of high quality programing is perhaps the most visible problem of the system. The number of prime-time public TV programs produced in Britain is one symptom of this problem. Another is the widespread complaint by stations and independent producers that the system does not have sufficient funds for program production.

Both the large producing stations and independent producers have been very critical of the bureaucratic procedures associated with program funding. CPB and PBS both have a hand in the approval of grants for research and development, for pilot production, and for series contracts. Because many productions are funded by a consortium of public and private funding, the producer must be responsive to the "accountability" requirements of many different organizations. Should any one portion of the funding be withdrawn, the project may have to be abandoned. Such complex procedures cannot lead to creative excellence in programing.

The program funding bureaucracy has another negative result. A significant percentage of the funds which might be spent for program production are devoted instead, at both the national and local levels, to administration and "fund-scrounging." The large producing stations all devote substantial staff resources to developing program proposals and then guiding them through the perilous trail of funding.

The problem is somewhat worse for the independent producer. Because the stations are the "backbone" of the system, and because they are "starved" for funds, there are few incentives for the system to pay for out-of-house production of programing. For this reason, independent producers have argued that they have been almost entirely excluded from public funding. This, despite the fact that they may be able to provide a better product at lower cost.

Public broadcasting is also criticized for its lack of local and national public affairs programs, controversial programs, and programing for minority audiences. Given the current funding mechanisms, these weaknesses are not hard to understand. Corporate underwriters sponsor programing for "public relations" purposes, and therefore do not want to offend any segments of the audience. Because local stations must attract local support, they likewise avoid programing of a controversial or specialized nature. CPB program grants also seem to be aimed at heavily funded general appeal programs.

The Station Program Cooperative (SPC), which was designed to allow the stations to express their preferences for programs, also contributes to the problem.

The critical factor in the SPC is the number of stations that want a particular program. The emphasis is on cost to the stations—how can each program dollar be spread further? As a result, the SPC tends to select (1) programs aimed at the widest possible audiences, and (2) programs which are made available at least cost to the local stations (for example, programs with corporate underwriting, British material purchased at rates far below domestically produced product, et cetera). Controversial and specialized programming (that is, public affairs or documentaries) has tended to fare poorly in this environment. Moreover, the system continues to rely heavily on national productions, with only about 11 percent of the programs aired produced locally.

The committee believes that more money should be allocated to programming at both the national and local level. Currently, CPB expends about 17 percent of its appropriation to fund the production of programs. This amount is insufficient to produce the amount and quality of program material required by the system. The committee therefore requires in the bill that CPB allocate a significant portion of its funds to programming and that a substantial amount be reserved for independent producers.

This provision is the committee's response to the administration proposal, contained in H.R. 12073, that there be established a "National Programming Fund" equal to 25 percent of CPB's annual budget. There were three major concerns advanced by the administration in making this proposal, including:

- (1) Making programming the system's first priority by specifically setting aside a generous amount of money solely for the development of programming;
- (2) Ending the system's tendency to rely on British imports; and
- (3) Providing a national showcase for the outstanding creative talent we have in the United States.

Although the committee believes that these are valid goals, it has chosen to provide CPB with more flexibility in meeting those goals than was afforded by a statutory 25 percent set-aside of funds. In addition, the committee found it difficult to determine what constituted "national" programming for purposes of this legislation.

It is, nevertheless, the committee's intent that the corporation continue to increase the percentage of its annual appropriations which goes to fund the production of television and radio programs. At present, CPB is expending 18 percent of its budget on programming. The committee views that commitment by CPB as insufficient, and intends by its guideline to correct it. The committee feels that the 25 percent figure is a reasonable target to be reached by fiscal year 1981.

The committee is also requiring that "a substantial amount" of these funds shall be reserved for distribution to independent producers. The committee is sensitive to the criticisms which many have made that CPB, PBS and the stations have not been fully responsive to independent producers, who are both in a position and eager to make positive contributions to the system. Accordingly, the committee intends that the requirement that "a substantial amount" of CPB's programming funds be reserved for independent producers will insure that independent producers have adequate access to funds distributed by CPB.

Local program production by the stations also must be encouraged. KCET-TV in Los Angeles, one of the Nation's largest public TV stations currently programs only about 2½ hours per week of locally produced public affairs programs. The committee recommends that each station be encouraged by means of incentive grants, to produce programs that address the needs of the local communities served. In order to increase program diversity, stations also are encouraged to fund or to purchase programming produced by independent producers. The hearing record is replete with criticisms that public broadcasting is not open to the work of independent producers. Because the committee does not believe it is possible to make creative decisions in legislation, the committee resisted the notion of a specific set-aside for independent producers. However, independent producers deserve a proper marketplace for their product. It must be an important goal of public broadcasting to foster and support American talent and creativity.

Accordingly, the committee urges public broadcast stations to review their program selection practices to insure that they are receptive to program material produced outside the stations. In addition, the sunshine provisions of the legislation should assist independent producers by increasing their information about, and understanding of, the individual public telecommunications entities and their membership organizations.

The CPB program funding process has been criticized by many for its maze of bureaucratic procedures and delay. Recently, the Board of the Corporation approved a new system for program funding which would minimize bureaucratic duplication and remove the board from decisionmaking in regard to individual programs or series. The system also incorporates a process of review by panels of experts, as required in this legislation. Such review is an alternative to the "bloc" grant restriction contained in the administration's bill. However, both provisions are intended to reduce the direct involvement of the CPB Board in program funding decisions. The committee recommends that a system of this type be implemented as rapidly as possible, and that potential applicants be notified regularly of the Corporation's procedures and priorities for program funding. In addition, the Corporation is encouraged to spend a portion of its funds on "bloc" grants to stations and independent production entities.

The following is the statement on program procedures adopted on March 22, 1978, by the Board of the Corporation for Public Broadcasting:

"BOARD STATEMENT—PROGRAM FUNDING PROCEDURES

The Board of Directors of the Corporation for Public Broadcasting:

Reaffirms that a principal mission of the Corporation is to facilitate the development, production and acquisition of programs of excellence for all Americans.

Asserts its belief that problems common to all parties within public broadcasting can and should be resolved in a participative environment.

Further recognizes the existence of significant and long-standing concerns surrounding the issue of program funding procedures. The Board is encouraged by the progress made by the CPB staff, working with other public broadcasting entities, toward resolution of this problem, but points out that much remains to be accomplished.

Solicits and welcomes the continued participation of the licensees in refining principles, processes and mechanisms which can be introduced and implemented as early as resources can be made available, with full implementation projected for the fiscal year 1981. The Board further instructs the CPB staff to solicit opinions and suggestions from qualified producers and other interested parties, including representatives of minorities and women, outside public broadcasting in the development of the program funding mechanisms.

Stipulates that the funding process should:

- be as simple as possible, and easily comprehended by those outside, as well as inside the system;

- be designed to encourage program creativity, including new and innovative programming, from diverse sources;

- be open and fair to qualified producers, large and small, both inside and outside the system—licensee production centers, consortia of stations, as well as independent producers;

- serve the needs of, and provide full opportunities for participation by, the underserved and unserved groups in our society, for example, minorities and women;

- offer the greatest possible flexibility and latitude in the allocation of resources, with a minimum of bureaucratic restrictions and constraints;

- address the need to aggregate funds for the production of major program series on a continuing basis;

- provide for long-range planning and predictability.

Seeks for itself a policymaking role in providing CPB financial assistance for program production and acquisition and wishes to separate the Board, its committees and members from decisions on individual programs and series of programs.

The Board also reaffirms the Corporation's responsibility to the American public, including its fiduciary responsibility, stressing the following as key to its mandate:

- The establishment of a new, more effective and comprehensible mechanism for establishing priorities for allocation of CPB resources to program production or acquisition.

- Through consultation with the best available sources of expertise, the conduct by the Corporation of research and development of programs or program series including those which are innovation or experimental, or which are not provided through other means or mechanisms.

- The maintenance of auditing and other procedures to guarantee the financial accountability of those who receive assistance from CPB,

The establishment of new, more effective evaluative mechanisms to assess the value of the public investment, through CPB, in program research, development, production or acquisition.

Finally, the committee recommends that the Corporation for Public Broadcasting take steps to increase the amount of programming aimed at minority and other specialized audiences. While some progress in this regard has been made, the current financial structure of the system continues to necessitate programming that is designed to attract those who can afford to support public broadcasting. The Corporation is encouraged to balance such economic forces by providing funding for programs that meet the needs of less-than-mass audiences and by subsidizing targeted programs in the Station Program Cooperative.

Public participation/accountability

Prior to this legislation, there have been no mechanisms established by law to insure public participation in public broadcasting at either the national or local levels. The committee believes that in order for public broadcasting to be responsive to community needs, effective public involvement in planning and decisionmaking is required. Last year, the Advisory Council of National Organizations, a group established by CPB to provide input on programming and service needs, voted to disband because it felt ineffective. CPB has appointed a "task force" to look into ways of encouraging more effective public participation.

At the local level, public participation most often takes the form of local station boards or advisory committees which oversee the operation of the stations.

The existence of station boards does not in itself guarantee effective public participation and accountability at the local level. Questions of accountability turn on the makeup and operation of the Boards. A number of witnesses at the subcommittee's hearings criticized the "closed-door" operation of many public broadcasting stations. In some instances, board members themselves were denied access to station records. This situation, it was felt, both reflected and reinforced a lack of responsiveness on the part of public broadcasters, particularly in the areas of EEO, and local program production aimed at meeting specialized audience needs. It was suggested that several steps are necessary to improve this situation, including mandated station boards, open election of station board members, open board meetings, open records, publication of annual reports, public scrutiny of station expenditures, and training of local board members so that they may understand and carry out their responsibilities more effectively.

The committee has chosen in this legislation to concentrate on opening up station operations to public scrutiny, by means of open board meetings and open financial reports. In addition, each station would be required to establish a "community advisory board" to provide assistance to the station in assessing community needs.

Although these proposed "sunshine" provisions should improve station accountability to the public, good faith efforts on the part of public broadcasters to comply with the "spirit" as well as the "letter" of the law also will be necessary. The committee recommends that steps be taken to educate governing and advisory board members as to their

responsibilities in overseeing station operations. In addition, the committee recommends that CPB and the stations continue to investigate methods for improving public participation in public broadcasting, including the election of station boards and the establishment of national advisory councils to participate in setting goals for, and guiding the development of the public broadcasting system.

The role of nonbroadcast technologies

The 1967 Carnegie Commission Report discussed the advent of new technologies with particular reference to cable television and satellites. It urged CPB to "take advantage of the changing technological resources" and saw CPB as the master, rather than the servant, of change. However, the Commission ended up recommending a system which was centered around broadcast technology and which relegated other technology to the role of augmenting basic broadcast service.

CPB continues to view technological change within this limited context. The most dramatic example is public broadcasting's satellite interconnection proposal. While the proposal holds the promise of greater programing flexibility for the stations (and significant savings in the overall cost of interconnection), it has not been developed with an eye toward other uses which might further the mandate of the 1967 Act—providing expanded service to the public.

A public telecommunications system which utilizes all available technologies could contribute to the development of more general applications of broadband technology, such as two-way interactive uses, facsimile transmission, and data services. While it is not envisioned that such applications would compete with similar commercial services, the involvement of the public system could accelerate development and application in the private sector. The Japanese, for example, are experimenting with a broadband system to augment their public broadcasting service which includes a facsimile newspaper, a two-way multiple citizen response for televised public meetings, and an information retrieval system with video displays.

One area where nonbroadcast technologies might be used effectively is in the provision of instructional or "classroom" services. Many States and localities rely on public broadcasting stations to provide instructional television; indeed, this was the initial impetus for developing "educational broadcasting." But to the extent that these uses conflict with more general programing aims articulated by the Carnegie Commission, it is worth considering whether "classroom" uses should be shifted to other technologies (video cassettes, videodiscs, and so forth). In addition, the development and application of ITFS to meet these needs should be given more attention.

The Committee recommends that the Corporation for Public Broadcasting and the Commerce Department participate in planning the integration of nonbroadcast technologies into the publicly-funded telecommunications system in order to increase both the coverage and the diversity of its services to the public.

Employment practices

In April, 1977, the Subcommittee on Communications issued a report which detailed the shameful record of public broadcasting in the area of equal employment opportunities and affirmative action.

The report stated that although CPB grantees appear to be subject to the provisions of the Civil Rights Act, gaps in the law, inadequate personnel, and an overall lack of commitment have led to enforcement problems. The subcommittee directed that a task force composed of representatives of the involved Federal agencies be established to look into the situation. In January 1978 the task force issued its report which recommended that CPB be given monitoring and enforcement responsibilities in the EEO area.

The committee accepted the task force recommendation that CPB play a role in monitoring the employment practices at the station level, and carrying out pre-grant reviews of potential grantees. However, it was decided that since CPB is not a Federal agency, enforcement of the EEO requirements would be assigned to the Office for Civil Rights (OCR) of the Department of Health, Education and Welfare. It is the committee's intention that the Secretary of HEW act as expeditiously as possible, and in consultation with CPB, to adopt rules and regulations relating to public broadcasting.

However, statutory clarification of EEO responsibilities and enforcement mechanisms will not be sufficient to improve the employment record of public broadcasting. The system must take steps at all levels to train, recruit, and promote minorities and women. Recent statistics compiled by the CPB Task Force on Minorities in Public Broadcasting indicate that the employment record of public radio and television stations is still far from satisfactory. At the hearings on this legislation in April 1978, Mr. Nolan Bowie, director of Citizens Communications Center in Washington, D.C., testified as follows:

Last year, the Corporation for Public Broadcasting commissioned a minority task force to study the problems of interest to minorities in public broadcasting, including minority control of public broadcasting facilities, minority programming, and employment. The initial finding of the CPB minority task force disclosed the following statistics regarding the employment of minorities and women in the decision-making positions utilizing management information system codes.

Of the 189 chief executive officers in public television stations, only 5, or 2 percent, are minority group members. Only 7, or 3 percent, are female. Of the five minorities, four represent noncontinental U.S. stations in the Virgin Islands, Puerto Rico, and Alaska. This leaves one American Indian, male TV station head in the continental United States.

There are 142 chief executive officers in public radio stations; 8, or 5 percent, are minorities; 15, or 10 percent, are women.

Of the 134 public T.V. executives who have responsibility for local program schedules, only 2, or 1 percent are minority group members; 21, or 16 percent of these jobs, are held by women. The two minority persons have responsibility for the Virgin Islands and Puerto Rico stations. Thus there are no minority group members in public television program executive positions in the continental United States.

Of the 88 public radio executives that are responsible for designing local program schedules, 6, or 8 percent, are minority group members; 11, or 13 percent, are female. Of the 73 production executive positions in public TV stations in the public system, only 3, or 4 percent, are minority group members; Only 4, or 5 percent, are female. Of the 22 public radio production executive positions, 4 are held by minority group members and only two are held by women. Of the 140 persons with executive engineering positions in public TV stations, 1, or 0.7 percent, is a minority person, and none are female, 0 percent. The one Asian male represents the Hawaii station. Thus there are no minority group members or women in executive engineering positions in any public TV station located in the continental United States.

Of the 75 engineering executives in public radio stations, only 2, representing 3 percent, are minority, and only 2, another 3 percent, are female. There are 71 chief financial officers in public television stations. Only five, or 7 percent are members of minority groups. Twenty-eight, or 39 percent, are female. Three of the five total minorities represent public TV stations located in the Virgin Islands, Puerto Rico, and Alaska.

Of the 31 directors of development reported at public radio stations, none are minority group members. Sixteen, or 51 percent, are women. Of the eight persons with executive responsibility in promotion of public radio stations, not one is a member of a minority group. Six, or a full 75 percent, are women. Finally, of the eight persons at public radio stations under the category of business manager, none are members of a minority group. All eight are female.

Clearly, much more remains to be done to improve the employment record of public broadcasting. Therefore, the committee reaffirms the recommendations made by its Subcommittee on Communications in its report of April 1977 and intends to engage in vigorous oversight of the efforts of CPB, PBS, NPR, and the public broadcasting stations to attract, train, and promote minorities and women.

Financial management and accountability

The committee supports the principle of insulation of public broadcasting from Government interference. However, even insulated Federal support will require Congressional oversight in order to insure that Federal funds are used for their intended purposes. The committee is concerned by preliminary findings of the General Accounting Office which indicate that there are accounting deficiencies at the stations that are deemed to be "serious"¹ by CPB auditors. Such deficiencies include lack of inventories of station facilities, absence of funds for replacement of equipment although depreciation is charged to production budgets, lack of supporting materials for in-kind contributions to the stations, and widely varying overhead charges.

¹ CPB defines "serious" to mean those audits where material discrepancies were determined. These findings impact upon (1) CPB accountability for its funds distributed; (2) non-Federal financial support certified to Treasury and used in CSG determination; (3) CPB fund recipient's failure to meet grant/contract requirements.

In fiscal year 1977, CPB completed 114 audits of grant recipients. Of these, nearly half were classified as having "serious" deficiencies. Moreover, although CPB's objective is to audit each of the public broadcast stations at least once every 3 years, 25 percent of the public radio and television stations have never been audited. In addition, CPB performed no audits on its agreements with PBS or NPR until 1975.

The audits performed in 1975 subsequently by the Corporation's own admission, have been "limited." GAO has performed no full scale audit of PBS or NPR since 1967. In fiscal year 1977, CPB provided approximately \$15.1 million and \$7.7 million to PBS and NPR, respectively. The committee believes that the magnitude of CPB funds available to PBS and NPR, and the general discretion provided in CPB grants to both organizations, make annual audits of both, by either CPB or GAO, imperative.

The record of financial accounting practices of public broadcasting entities clearly demonstrates the need for more stringent audit practices by CPB. CPB currently devotes only 0.3 percent of its total appropriations to auditing functions. The Corporation has recognized the need to increase its audit staff in order to obtain its goal of auditing all of its grantees during every 3-year period. In fiscal year 1979, CPB will have 15 members on its audit staff. This will insure more frequent and efficient audits. The committee urges the Corporation to continue to strengthen its effort in this area and will follow the results closely.

H.R. 12605 recognizes the need for more effective audit and accounting procedures. The legislation requires CPB, in consultation with the General Accounting Office and the Financial Accounting Standards Board, to develop a uniform accounting system to be used by all public telecommunications entities. Recognizing that there is a broad variation in the budgets and institutional structures of the stations, the provision allows for the development of different classes of accounting systems for different classes of users.

In particular, the accounting system should be designed so as to insure to the maximum extent possible, that governmental, university, and other institutional licensees will not be burdened with an unwarranted duplication of recordkeeping requirements.

The legislation also requires that public telecommunications entities undergo an annual audit by independent auditors. It is contemplated that where an entity is audited annually by a State agency, such audits would qualify as an annual audit by an independent auditor. The legislation permits CPB and GAO to have access for the purpose of audit to the books and records of any recipient of funds from the Corporation.

The committee intends to monitor the effectiveness of the accounting standards developed and implemented by CPB pursuant to this legislation. The Corporation is directed to act expeditiously to develop a system of accounts that will help to remedy the accounting deficiencies at the station level.

Technical handicaps to the development of public broadcasting

Two-thirds of the public television stations now operate on the UHF band. Because of the characteristics of the UHF signal, the way in

which it is transmitted and received, and the design of TV set controls, it is difficult for many potential viewers to receive an acceptable signal. There are a number of possible remedies for this situation, including mandating a reduction in the noise level of the UHF receiver, and increasing the power of UHF transmitters.

The committee desires that all possible improvements, which would not interfere with the future development of additional public broadcasting stations or the development of additional opportunities for minority ownership of broadcast facilities, be undertaken promptly. For this reason, it is imperative that the Federal Communications Commission continue its investigation of the future of UHF television. Resolution of the problem is relevant to this legislation since the effectiveness of Federal dollars appropriated to support existing and new public television stations depends on effective utilization of the UHF spectrum. The committee intends to monitor closely developments at the Commission in that area.

The Federal Communications Commission also will play a significant part in public radio's future as well. In the near future the Commission will take action on a long-pending rulemaking docket (No. 20735) which involves, among other matters, development of a table of allocations for noncommercial educational FM radio similar to the table already in place for commercial FM broadcasting. The committee is hopeful that the Commission will move expeditiously toward bringing more orderly development to the FM channels set aside exclusively for noncommercial educational FM.

AGENCY REPORTS

In addition to the statement of the President in submitting the antecedent of this legislation to the Congress (which appears above in this report), the committee received the following letter from Henry Geller, Assistant Secretary-designate of the National Telecommunications and Information Administration of the Department of Commerce:

DEPARTMENT OF COMMERCE,
NATIONAL TELECOMMUNICATIONS AND
INFORMATION ADMINISTRATION,
Washington, D.C., May 15, 1978.

HON. LIONEL VAN DEERLIN,
House of Representatives,
Washington, D.C.

DEAR MR. VAN DEERLIN: The Administration wishes to make clear its strong support for the Public Broadcasting Bill as marked up by the House Subcommittee. This version carries out the principles of the President's program, as reflected in his message, and thus its enactment has our solid backing.

If there are any questions on this score, I would be glad to respond promptly.

Sincerely,

HENRY GELLER,
Assistant Secretary-Designate.

COST ESTIMATE

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement has been prepared by the Congressional Budget Office relative to the cost of this legislation:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 12, 1978.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Rayburn Office Building, Washington, D.C. 20515

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 12605, the Public Telecommunications Financing Act of 1978.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ROBERT A. LEVINE,
Deputy Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 12, 1978.

1. Bill number: H.R. 12605.
2. Bill title: Public Telecommunications Financing Act of 1978.
3. Bill status: As reported by the Subcommittee on Communications of the Committee on Interstate and Foreign Commerce, to the full committee.
4. Bill purpose: The primary provisions in this bill will: (1) assist, through matching grants, nonprofit educational broadcast stations or systems, or other nonprofit or Government educational organizations, in the planning and construction of public television facilities; (2) extend authorization for certain telecommunications demonstration projects; and (3) extend authorization for the Corporation for Public Broadcasting.

This bill is subject to subsequent appropriation action.

5. Cost estimate:

[By fiscal years; in millions of dollars]

| | 1979 | 1980 | 1981 | 1982 | 1983 |
|---|------|------|------|------|------|
| Title I—Construction and planning of facilities: | | | | | |
| Authorization level..... | 40 | 40 | 40 | 20 | 220 |
| Estimated net costs..... | 20 | 40 | 40 | 20 | 220 |
| Title II—Demonstration projects: | | | | | |
| Authorization level..... | 1 | | | | |
| Estimated net costs..... | 1 | | | | |
| Title III—Corporation for Public Broadcasting: | | | | | |
| Authorization level..... | | | 180 | 200 | 220 |
| Estimated net costs..... | | | 180 | 200 | 220 |
| Total: | | | | | |
| Authorization level..... | 41 | 40 | 220 | 200 | 220 |
| Estimated net costs..... | 21 | 40 | 220 | 220 | 220 |

The costs of this bill fall within budget function 500.

6. Basis for estimate: The authorization amounts shown above are those stated in the bill, and it is assumed that these amounts will be appropriated.

Title I transfers the construction grants program from the Department of Health Education and Welfare to the Department of Commerce and authorizes the amounts stated in H.R. 12605 for the next three fiscal years. The authorization also covers administrative costs incurred by the Commerce Department. Estimated costs assume a lag between applications and grants, so that the spendout rate in the first year will be 50 percent of the authorization, with the remainder in the second year.

Title II continues authorization for the demonstration projects for fiscal year 1979 at the amount stated in current law.

Title III extends the authorization for the Corporation for Public Broadcasting through fiscal year 1983. This program is currently authorized through fiscal year 1980. The additional costs associated with this title are those for fiscal years 1981 through 1983. The 100 percent spendout rate occurs since the current practice is to transfer to the Corporation the full amount appropriated for each fiscal year.

7. Estimate comparison: None.

8. Previous CBO estimate: H.R. 12605 is similar to S. 2883, except that there is an additional \$20 million authorization for the Corporation for Public Broadcasting for fiscal year 1983, and that administration costs for title I may be taken from the authorization.

9. Estimate prepared by: Stephen Chaikind.

10. Estimate approved by:

JAMES L. BLUM,

Assistant Director for Budget Analysis.

INFLATION IMPACT STATEMENT

Pursuant to rule XI 2(l)(4) of the House of Representatives, the committee makes the following statement with regard to the inflationary impact of the bill as reported:

There has been Federal funding for the Corporation for Public Broadcasting over the last 11 fiscal years at progressively higher levels. Similarly, the facilities program has been funded at increasing levels for the last 16 years. The authorizations contained in the legislation herein reported continue that progression. The telecommunications demonstration program has been funded for the last 2 years at the same level as is authorized for the next fiscal year in this legislation.

The difference between the amount appropriated to CPB in fiscal year 1978 (\$107.2 million) and the amount authorized under this legislation for fiscal year 1981 (\$180 million) is \$72.8 million. The difference between the amount appropriated to the facilities program for fiscal year 1978 (\$14 million) and the amount authorized in this legislation for fiscal year 1979 (\$40 million) is \$26 million. This is a small fraction of a percentage point of proposed total outlays for fiscal year 1979 as determined under the Budget Resolution for fiscal year 1979. Your committee is unaware of any inflationary impact on the economy that this would have.

Authorizations for the succeeding years for the facilities program remain constant, and authorizations for CPB increase by \$20 million each year. Because the amounts involved represent such a small portion of the expected total budgetary outlays for those fiscal years, there is unlikely to be any inflationary impact on the economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * *

[PART IV—ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING]

PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING

[SUBPART A—ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES AND TELECOMMUNICATIONS DEMONSTRATIONS]

Subpart A—Assistance for Public Telecommunications Facilities

[DECLARATION OF PURPOSE

[SEC. 390. The purposes of this subpart are (1) to assist (through matching grants) in the construction of noncommercial educational television or radio broadcasting facilities, and (2) to demonstrate (through grants or contracts) the use of telecommunications technologies for the distribution and dissemination of health, education, and other public or social service information.]

DECLARATION OF PURPOSE

SEC. 390. The purpose of this subpart is to assist (through matching grants) in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide educational and cultural services to the public.

AUTHORIZATION OF APPROPRIATIONS

[SEC. 391. There are authorized to be appropriated \$7,500,000 for the period July 1, 1976, through September 30, 1976, and \$30,000,000 for the fiscal year ending September 30, 1977, to assist (through matching grants) in the construction of noncommercial educational television or radio broadcasting facilities as provided in this subpart. Sums appropriated under this section for any fiscal year or period shall remain available for payment of grants for projects for which applications approved under section 392 have been submitted under such section within one year after the last day of such fiscal year or period.]

AUTHORIZATION OF APPROPRIATIONS

Sec. 391. There are authorized to be appropriated \$40,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart. Sums appropriated under this subpart for any fiscal year shall remain available until expended for payment of grants for projects for which applications approved by the Secretary of Commerce pursuant to this subpart have been submitted within such fiscal year. Sums appropriated under this subpart may be used by the Secretary to cover the cost of administering the provisions of this subpart.

[GRANTS FOR CONSTRUCTION

[SEC. 392. (a) For each project for the construction of noncommercial educational television or radio broadcasting facilities there shall be submitted to the Secretary an application for a grant containing such information with respect to such project as the Secretary may by regulation require, including the total cost of such project and the amount of the Federal grant requested for such project, and providing assurance satisfactory to the Secretary—

[(1) that the applicant is (A) an agency or officer responsible for the supervision of public elementary or secondary education or public higher education within that State, or within a political subdivision thereof, (B) in the case of a project for television facilities, the State noncommercial educational television agency or, in the case of a project for radio facilities, the State educational radio agency, (C) a public or private nonprofit college or university or other educational or cultural institution which is affiliated with an eligible college or university, (D) (i) in the case of a project for television facilities, a nonprofit foundation, corporation, or association which is organized primarily to engage in or encourage noncommercial educational television broadcasting and is eligible to receive a license from the Federal Communications Commission for a noncommercial educational television broadcasting station pursuant to the rules and regulations of the Commission in effect on April 12, 1962, or (ii) in the case of a project for radio facilities, a nonprofit foundation, corporation, or association which is organized primarily to engage in or encourage noncommercial educational radio broadcasting and is eligible to receive a license from the Federal Communications Commission; or meets the requirements of clause (i) and is also organized to engage in or encourage such radio broadcasting and

is eligible for such a license for such a radio station, or (E) a municipality which owns and operates a broadcasting facility transmitting only noncommercial programs;

[(2) that the operation of such educational broadcasting facilities will be under the control of the applicant or a person qualified under paragraph (1) to be such an applicant;

[(3) that necessary funds to construct, operate, and maintain such educational broadcasting facilities will be available when needed;

[(4) that such broadcasting facilities will be used only for educational purposes; and

[(5) that, in the case of an application with respect to radio broadcasting facilities, there has been comprehensive planning for educational broadcasting facilities and services in the area the applicant proposes to serve and the applicant has participated in such planning, and the applicant will make the most efficient use of the frequency assignment.

[(b) The total of the grants made under this part from the appropriation for any fiscal year for the construction of noncommercial educational television broadcasting facilities and noncommercial educational radio broadcasting facilities in any State may not exceed 8½ per centum of such appropriation.

[NOTICE TO STATE EDUCATIONAL TELEVISION AND RADIO AGENCIES

[(c)(1) In order to assure proper coordination of construction of noncommercial educational television broadcasting facilities within each State which has established a State educational television agency, each applicant for a grant under this section for a project for construction of such facilities in such State, other than such agency, shall notify such agency of each application for such a grant which is submitted by it to the Secretary, and the Secretary shall advise such agency with respect to the disposition of each such application.

[(2) In order to assure proper coordination of construction of noncommercial educational radio broadcasting facilities within each State which has established a State educational radio agency, each applicant for a grant under this section for a project for construction of such facilities in such State, other than such agency, shall notify such agency of each application for such a grant which is submitted by it to the Secretary, and the Secretary shall advise such agency with respect to the disposition of each such application.

[(d)(1) The Secretary shall base his determinations of whether to approve applications for television grants under this section and the amount of such grants on criteria set forth in regulations and designed to achieve (A) a strengthening of the capability of existing noncommercial educational television stations to provide local services; (B) the adaptation of existing noncommercial educational television facilities to broaden educational uses; and (C) extension of noncommercial educational television services, with due consideration to equitable geographic coverage throughout the United States.

[(2) The Secretary shall base his determination of whether to approve applications for radio grants under this section and the amount of such grants on criteria set forth in regulations and designed to achieve (A) extension of noncommercial educational radio services

with due consideration to equitable geographic coverage throughout the United States; (B) a strengthening of the capability of existing noncommercial educational radio stations to provide local service; and (C) the provision of multiple radio stations in major population centers to broaden services for special interest, minority, and educational uses.

[(e) Upon approving any application under this section with respect to any project, the Secretary shall make a grant to the applicant in the amount determined by him, but not exceeding 75 per centum of the amount determined by the Secretary to be the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sum available therefor, in adverse or by way of reimbursement, and in such installments consistent with construction progress, as he may determine.

[(f) If, within ten years after completion of any project for construction of educational television or radio broadcasting facilities with respect to which a grant has been made under this section—

[(1) the applicant or other owner of such facilities ceases to be an agency, officer, institution, foundation, corporation, or association described in subsection (a)(1) of this section, or

[(2) such facilities cease to be used for noncommercial educational television purposes or noncommercial educational radio purposes, as the case may be (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation so to do), the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated) of such facilities, as the amount of the Federal participation bore to the cost of construction of such facilities.]

GRANTS FOR CONSTRUCTION AND PLANNING

SEC. 392. (a) For each project for the construction of public telecommunications facilities there shall be submitted to the Secretary of Commerce an application for a grant containing such information with respect to such project as the Secretary may require including the total cost of such project, the amount of the grant requested for such project, and a five-year plan outlining the applicant's projected facilities requirements and the projected costs of such facilities requirements. Each applicant shall also provide assurances satisfactory to the Secretary that—

(1) the applicant is (A) an entity which is eligible to be licensed or is licensed by the Federal Communications Commission as a noncommercial educational broadcast station; (B) a system of public broadcast stations; (C) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (D) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State;

(2) The operation of such public telecommunications facilities will be under the control of the applicant;

(3) necessary funds to construct, operate, and maintain such public telecommunications facilities will be available when needed;

(4) such public telecommunications facilities will be used only for noncommercial educational or cultural purposes;

(5) the applicant has participated in comprehensive planning for such public telecommunications facilities in the area which the applicant proposes to serve, and such planning has included an evaluation of alternate technologies; and

(6) the applicant will make the most efficient use of the grant.

(b) Upon approving any application under this section with respect to any project for the construction of public telecommunications facilities, the Secretary of Commerce shall make a grant to the applicant in the amount determined by the Secretary, except that such amount shall not exceed 75 per centum of the amount determined by the Secretary to be the reasonable and necessary cost of such project.

(c) The Secretary of Commerce may provide such funds as the Secretary deems necessary for the planning of any project for which construction funds may be obtained under this section. An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances satisfactory to the Secretary that the applicant meets the eligibility requirements of subsection (a) to receive construction assistance.

(d) Any studies conducted by or for any grant recipient under this section shall be provided to the Secretary of Commerce, if such studies are conducted through the use of funds received under this section.

(e) The Secretary of Commerce shall establish such rules and regulations as may be necessary to carry out this subpart, including rules and regulations relating to the order of priority in approving applications for construction projects and relating to determining the amount of each grant for such projects.

(f) In establishing criteria for grants pursuant to section 393 and in establishing procedures relating to the order of priority established in subsection (e) in approving applications for grants, the Secretary of Commerce shall give special consideration to applications which would increase minority and women's ownership of, and participation in, public telecommunications entities. The Secretary shall take affirmative steps to inform minorities and women of the availability of funds under this subpart, and the localities where new public telecommunications facilities are needed, and to provide such assistance and information as may be appropriate.

(g) If, within ten years after completion of any project for construction of public telecommunications facilities with respect to which a grant has been made under this section—

(1) the applicant or other owner of such facilities ceases to be an agency, institution, foundation, corporation, or association described in subsection (a)(1); or

(2) such facilities cease to be used only for noncommercial public telecommunications purposes (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time the applicant ceases to be such an entity or at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bore to the cost of construction of such facilities.

(h) *Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary of Commerce to carry out the functions of the Secretary under this subpart, including records which fully disclose the amount and the disposition by such a recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.*

(i) *The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this subpart that are pertinent to assistance received under this subpart.*

* * * * *

[RECORDS

[SEC. 393. (a) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out his functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

[(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subpart.]

CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

SEC. 393. (a) The Secretary of Commerce, in consultation with the Corporation for Public Broadcasting, noncommercial telecommunications entities, and as appropriate with others, shall establish criteria for making construction and planning grants. Such criteria shall be consistent with the objectives and provisions set forth in this subpart, and shall be made available to interested parties upon request.

(b) The Secretary of Commerce shall base determinations of whether to approve applications for grants under this subpart, and the amount of such grants, on criteria developed pursuant to subsection (a) and designed to achieve—

(1) the provision of new telecommunications facilities to extend service to areas presently unserved by public broadcasting;

(2) the expansion of the service areas of existing public telecommunications entities;

(3) the development of public telecommunications facilities owned by and available to minorities and women; and

(4) the improvement of the capabilities of existing public broadcast stations to provide educational and cultural services.

(c) *Of the funds appropriated pursuant to section 391 for any fiscal year, not less than 75 per centum shall be available for the creation of new noncommercial telecommunications entities and for the expansion of the service areas of existing noncommercial telecommunications entities, and preoperational expenses associated with such creation and expansion. In choosing among applicants for grants, the Secretary shall compare the advantages of alternate technologies on the basis of costs and benefits.*

(d) *Of the funds appropriated pursuant to section 391 for any fiscal year, not more than 25 per centum shall be available for the expansion and development of noncommercial radio broadcast station facilities.*

[RULES AND REGULATIONS]

[SEC. 394. The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under section 392 or to determining the amounts of grants for such projects.]

LONG-RANGE PLANNING FOR FACILITIES

SEC. 394. (a) The Secretary of Commerce, in consultation with appropriate parties, shall develop a long-range plan to accomplish the objectives set forth in section 390. Such plan shall include a detailed five-year projection of the broadcast and nonbroadcast public telecommunications facilities required to meet such objectives, and the expenditures necessary to provide those facilities.

(b) The plan required in subsection (a) shall be updated annually, and a summary of the activities of the Secretary of Commerce, in implementing the plan, shall be submitted concurrently to the President and the Congress

[COORDINATION WITH THE COMMISSION AND THE CORPORATION]

[SEC. 395. The Federal Communications Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for close coordination with the Federal Communications Commission in the administration of his functions under this subpart which are of interest to or affect the functions of the Commission. The Secretary shall provide for close coordination with the Corporation for Public Broadcasting in the administration of his functions under this subpart which are of interest to or affect the functions of the Corporation.]

Subpart B—Telecommunications Demonstrations

ASSISTANCE FOR DEMONSTRATION PROJECTS

SEC. 395. (a) It is the purpose of this subpart to promote the development of nonbroadcast telecommunications facilities and services for the transmission, distribution, and delivery of health, education, and public or social service information. The Secretary is authorized, upon receipt of an application in such form and containing such information as he may by regulation require, to make grants to, and enter into contracts with, public and private nonprofit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations.

(b) *The Secretary may approve an application submitted under subsection (a) if he determines—*

(1) that the project for which application is made will demonstrate innovative methods or techniques of utilizing nonbroadcast telecommunications equipment or facilities to satisfy the purpose of this subpart;

(2) that demonstrations and related activities assisted under this subpart will remain under the administration and control of the applicant;

(3) that the applicant has the managerial and technical capability to carry out the project for which the application is made; and

(4) that the facilities and equipment acquired or developed pursuant to the application will be used substantially for the transmission, distribution, and delivery of health, education, or public or social service information.

(c) Upon approving any application under this subpart with respect to any project, the Secretary shall make a grant to or enter into a contract with the applicant in an amount determined by the Secretary not to exceed the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sums available therefor, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(d) Funds made available pursuant to this subpart shall not be available for the construction, remodeling, or repair of structures to house the facilities or equipment acquired or developed with such funds, except that such funds may be used for minor remodeling which is necessary for and incidental to the installation of such facilities or equipment.

(e) For purposes of this section, the term "nonbroadcast telecommunications facilities" includes, but is not limited to, cable television systems, communications satellite systems and related terminal equipment, and other modes of transmitting, emitting, or receiving images and sounds or intelligence by means of wire, radio, optical, electromagnetic, or other means.

(f) The funding of any demonstration pursuant to this subpart shall continue for not more than three years from the date of the original grant or contract.

(g) The Secretary shall require that the recipient of a grant or contract under this subpart submit a summary and evaluation of the results of the demonstration at least annually for each year in which funds are received pursuant to this section.

(h)(1) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary of Health, Education, and Welfare to carry out the Secretary's functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subpart.

(i) *The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under this subpart or to determining the amounts of grants for such projects.*

(j) *The Federal Communications Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for close coordination with the Federal Communications Commission in the administration of his functions under this subpart which are of interest to or affect the functions of the Commission. The Secretary shall provide for close coordination with the Corporation for Public Broadcasting in the administration of his functions under this subpart which are of interest to or affect the functions of the Corporation.*

(k) *There are authorized to be appropriated \$1,000,000 for the fiscal year ending September 30, 1979, to be used by the Secretary of Health, Education, and Welfare to carry out the provisions of this subpart. Sums appropriated under this subsection for any fiscal year shall remain available for payment of grants or contracts for projects for which applications approved under this subpart have been submitted within one year after the last day of such fiscal year.*

SUBPART [B] C.—CORPORATION FOR PUBLIC BROADCASTING

CONGRESSIONAL DECLARATION OF POLICY

SEC. 396. (a) The Congress hereby finds and declares—

[(1) that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, including the use of such media for instructional purposes;

[(2) that expansion and development of noncommercial educational radio and television broadcasting and of diversity of its programming depend on freedom, imagination, and initiative on both the local and national levels;

[(3) that the encouragement and support of noncommercial educational radio and television broadcasting, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

[(4) that it furthers the general welfare to encourage noncommercial educational radio and television broadcast programming which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

[(5) that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make noncommercial educational radio and television service available to all the citizens of the United States;

[(6) that a private corporation should be created to facilitate the development of educational radio and television broadcasting and to afford maximum protection to such broadcasting from extraneous interference and control.] (1) *that it is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational and cultural purposes;*

(2) *that expansion and development of public telecommunications and of diversity of its programming depend on freedom, imagination, and initiative on both local and national levels;*

(3) *that the encouragement and support of public broadcasting, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;*

(4) *that it furthers the general welfare to encourage public broadcast programming which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;*

(5) *that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public broadcasting available to all the citizens of the United States;*

(6) *that it is in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the transmission of noncommercial educational and cultural programs and services; and*

(7) *that a private corporation should be created to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control.*

* * * * *

ELECTION OF CHAIRMAN; COMPENSATION

(d)(1) The [President shall designate one of the members first appointed to the Board as Chairman; thereafter the] members of the Board shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of them as a Vice Chairman or Vice Chairmen.

(2) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this subpart be entitled to receive compensation at the rate of \$100 per day including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

OFFICERS AND EMPLOYEES

(e)(1) The Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. *No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the rate of pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.* No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation, other than the Chairman and any Vice Chairman, may receive any salary or other compensation from any source other than the Corporation during the period of his employment by the Corporation. All officers shall serve at the pleasure of the Board.

(2) Except as provided in the second sentence of subsection (c)(1) of this section, no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

* * * * *

[PURPOSES AND ACTIVITIES OF THE CORPORATION

[(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a), the Corporation is authorized to—

[(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

[(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommercial educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the stations;

[(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

[(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

[(2) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in subsection (a) of this section, are, among others not specifically named—

[(A) to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

[(B) to contract with or make grants to program production entities, individuals, and selected noncommercial educational broadcast stations for the production of, and otherwise to procure, educational television or radio programs for national or regional distribution to noncommercial educational broadcast stations;

[(C) to make payments to existing and new noncommercial educational broadcast stations to aid in financing local educational television or radio programming costs of such stations, particularly innovative approaches thereto, and other costs of operation of such stations;

[(D) to establish and maintain a library and archives of noncommercial educational television or radio programs and related materials and develop public awareness of and disseminate information about noncommercial educational television or radio broadcasting by various means, including the publication of a journal;

[(E) to arrange, by grant or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational television or radio programs to noncommercial educational broadcast stations;

[(F) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this section;

[(G) to encourage the creation of new noncommercial educational broadcast stations in order to enhance such service on a local, State, regional, and national basis;

[(H) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to noncommercial educational television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs.

[(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, except that the Corporation may not own or operate any television or radio broadcast station, system, or network, community antenna television system, or interconnection or program production facility.]

Purposes and Activities of Corporation

(g)(1) *In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a) of this section, the Corporation may—*

(A) *facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public television or radio broadcast stations and noncommercial telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;*

(B) *assist in the establishment and development of one or more interconnection systems to be used for the distribution of public television or radio programs so that all public television or radio broadcast stations and noncommercial telecommunications entities may disseminate the programs at times chosen by the stations or entities;*

(C) *assist in the establishment and development of one or more systems of public broadcast stations and noncommercial telecommunications entities throughout the United States; and*

(D) *carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the public television or radio broadcast systems and local stations and noncommercial telecommunications entities from interference with, or control of, program content or other activities.*

(2) *In order to carry out the purposes set forth in subsection (a) of this section, the Corporation may—*

(A) *obtain grants from and make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions*

(B) contract with or make grants to national, regional, and other systems of public broadcast stations, public broadcast stations, noncommercial telecommunications entities, and independent producers and production entities for the production or acquisition of public television or radio programs for national or regional noncommercial distribution, except that (i) to the maximum extent possible, proposals for the provision of assistance by the Corporation in the production or acquisition of programs or series of programs shall be evaluated on the basis of comparative merit by panels of outside experts, representing diverse interests and perspectives, appointed by the Corporation; and (ii) nothing in this subparagraph shall be construed to prohibit the exercise by the Corporation of its prudent business judgment with respect to any contract or grant to assist in the production or acquisition of any program or series of programs recommended by any such panel;

(C) make payments to existing and new public broadcast stations and noncommercial telecommunications entities to aid in financing noncommercial television and radio programming costs of such stations and entities, particularly innovative approaches thereto, and other costs of operation of such stations and entities;

(D) establish and maintain a library and archives of public television or radio programs and related materials and develop public awareness of, and disseminate information about, public television or radio services by various means, including the publication of a journal;

(E) arrange, by grant to or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational and cultural television or radio programs and services to public broadcast stations and noncommercial telecommunications entities;

(F) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subpart;

(G) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to public television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of noncommercial educational and cultural television or radio programs;

(H) make grants or contracts for the use of nonbroadcast telecommunications technologies for the dissemination of noncommercial television or radio programs, except that any such contracts entered into shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts; and

(I) take such other actions as may be necessary to accomplish the purposes set forth in subsection (a) of this section.

(3) To carry out the foregoing purposes and engage in the foregoing activities, and consistent with the provisions of this subpart, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, except that the Corporation is prohibited from—

(A) owning or operating any television or radio broadcast station, system, or network, community antenna television system, interconnection system or facility, program production facility, or any public telecommunications entity, system, or network; and

(B) producing, acquiring, scheduling, or distributing programs.

(4) All meetings of the Board of Directors of the Corporation shall be open to the public under such terms, conditions, and exceptions as are set forth in subsection (k)(4) of this section.

(5)(A) The Corporation, in consultation with public broadcast stations, shall undertake a study to determine the manner in which the personal services of volunteers should be included in determining the level of non-Federal financial support pursuant to subsection (k)(2)(A). The study shall include an examination of any fiscal, administrative, or other factors which should be taken into account in determining the manner in which such services should be so included.

(B) The Corporation shall submit a report to the Congress containing the results of such study no later than 120 days after the effective date of this paragraph.

(6) The Corporation, in consultation with interested parties, shall create a 5-year plan for the development of public television and radio programs and services. Such plan shall be updated annually by the Corporation.

[AUTHORIZATION FOR FREE OR REDUCED RATE INTERCONNECTION SERVICE]

[(h)] Nothing in the Communications Act of 1934, as amended, or in any other provision of law shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for noncommercial educational television or radio services, subject to such rules and regulations as the Federal Communications Commission may prescribe.]

Interconnection Service

(h)(1) Nothing in this Act, or in any other provision of law, shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for public television or radio services, subject to such rules and regulations as the Federal Communications Commission may prescribe.

(2) Public telecommunications entities shall have priority for the use of interconnection systems for which funds authorized in this part are expended. Capacity remaining after such priority use shall be made available to other persons for the transmission of noncommercial educational and cultural programs, and information relating to such programs to public telecommunications entities. The Corporation, in consultation with the persons responsible for managing the interconnection systems, shall establish reasonable terms and conditions governing the use of the interconnection systems by persons other than public telecommunications entities except that (A) no such person shall be denied access whenever sufficient capacity is available; and (B) any charge made for such use shall not exceed any cost which is directly attributable to transmitting the material.

[REPORT TO CONGRESS]

[(i)] The Corporation shall submit an annual report for the preceding fiscal year ending June 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The re-

port shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate. The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection 396(1), or any other matter which any such committee may determine.】

REPORT TO CONGRESS

(i)(1) *The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include—*

(A) *a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this subpart and such recommendations as the Corporation deems appropriate;*

(B) *a comprehensive and detailed inventory of funds distributed by Federal agencies to public broadcasting and noncommercial telecommunications entities during the preceding fiscal year; and*

(C) *the summary of the annual report provided to the Secretary of Health, Education, and Welfare pursuant to section 398(b)(4) of this subpart.*

(2) *The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to section 396(l), or any other matter which such committees may determine.*

* * * * *

【FINANCING

【(k)(1) There is authorized to be appropriated for expenses of the Corporation \$50,000,000 for the fiscal year ending June 30, 1974, and \$60,000,000 for the fiscal year ending June 30, 1975.

【(2) In addition to the sums authorized to be appropriated by paragraph (1) of this subsection, there are authorized to be appropriated for payment to the Corporation for each fiscal year during the period July 1, 1970, to June 30, 1975, amounts equal to the amount of total grants, donations, bequests, or other contributions (including money and the fair market value of any property) from non-Federal sources received by the Corporation under section 396(g)(2)(A) of this Act during such fiscal year; except that the amount appropriated pursuant to this paragraph for any fiscal year may not exceed \$5,000,000.

【(3) There is hereby established in the Treasury a fund which shall be known as the "Public Broadcasting Fund" administered by the Secretary of the Treasury. There are authorized to be appropriated to such fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976, through

September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975; except that the amount so appropriated shall not exceed \$88,000,000 for the fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976, through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.

[(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

[(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on-the-air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is \$88,000,000 or more, but less than \$121,000,000; not less than 45 per centum in each fiscal year in which the amount disbursed is \$121,000,000 or more, but less than \$160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is \$160,000,000.

[(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on-the-air, establish, and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

[(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

[(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

[(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

[(iii) assure that each eligible licensee and permittee of a non-commercial educational radio-station receives a basic grant.

[(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

[(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programing, including but not limited to the following: producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programing purposes.]

Financing; Open Meetings and Financial Records

(k)(1)(A) *There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund (hereinafter in this subsection referred to as the "Fund"), to be administered by the Secretary of the Treasury.*

(B) *There is authorized to be appropriated to the Fund, for each of the fiscal years 1978, 1979, and 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed \$121,000,000 for fiscal year 1978, \$140,000,000 for fiscal year 1979, and \$160,000,000 for fiscal year 1980.*

(C) *There is authorized to be appropriated to the Fund, for each of the fiscal years 1981, 1982, and 1983, an amount equal to 50 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed \$180,000,000 for fiscal year 1981, \$200,000,000 for fiscal year 1982, and \$220,000,000 for fiscal year 1983.*

(D) *Funds appropriated under this subsection shall remain available until expended.*

(2)(A) *The funds authorized to be appropriated by this subsection shall be used by the Corporation, in a prudent and financially responsible manner, solely for its grants, contracts, and administrative costs, except that the Corporation may not use any funds appropriated under this subpart for purposes of conducting any reception, or providing any other entertainment, for any officer or employee of the Federal Government or any State or local government. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years referred to in paragraph (1) for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury, except that the Corporation may include in its certification non-Federal financial support received by a public broadcasting entity during its most recent fiscal year ending before September 30 of the year for which certification is made. Upon receipt of such certification, the Secretary of the Treasury shall make available to*

the Corporation, from such funds as may be appropriated to the Fund, the amount authorized for each of the fiscal years pursuant to the provisions of this subsection.

(B) Funds appropriated and made available under this subsection shall be disbursed by the Secretary of the Treasury on a quarterly basis, in such amounts as the Corporation certifies will be necessary to meet its financial obligations in the succeeding quarter.

(3)(A) The Corporation shall reserve for distribution among the licensees and permittees of public television and radio stations an amount equal to (i) not less than 40 per centum of the funds disbursed by the Corporation from the Fund under this section in each fiscal year in which the amount disbursed is \$88,000,000 or more, but less than \$121,000,000; (ii) not less than 45 per centum in each fiscal year in which the amount disbursed is \$121,000,000 or more, but less than \$160,000,000; and (iii) not less than 50 per centum of such funds in each fiscal year in which the amount disbursed is \$160,000,000 or more.

(B)(i) The Corporation shall establish an annual budget according to which it shall make grants and contracts for production of public television or radio programs by independent producers and production entities and public telecommunications entities, for acquisition of such programs by public telecommunications entities, for interconnection facilities and operations, for distribution of funds among noncommercial telecommunications entities, for provision of assistance to public telecommunications entities to improve management and train personnel, for engineering and program-related research, and for the enhancement of instructional and educational television and radio services. A significant portion of funds available under the budget established by the Corporation under this subparagraph shall be used for funding the production of television and radio programs. Of such portion, a substantial amount shall be reserved for distribution to independent producers and production entities for the production of programs.

(ii) All funds contained in such budget shall be distributed to entities outside the Corporation and shall not be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisors to the Corporation. During each of the fiscal years 1981, 1982, 1983, such budget shall consist of not less than 95 per centum of the funds made available to the Corporation pursuant to paragraph (1)(C) of this subsection.

(iii) In determining the amount of funds which shall be made available for radio programming and operations under this subparagraph, the Corporation shall take into account the increased financial needs relating to radio programming and operations resulting from the expansion and development of noncommercial radio broadcast station facilities through the use of funds made available pursuant to section 393(d).

(C) In fiscal year 1981, the Corporation may expend an amount equal to not more than 5 per centum of the funds made available during such fiscal year pursuant to paragraph (1)(C) of this subsection for those activities authorized under subsection (g)(2) which are not among those grant activities described in subparagraph (B).

(D) In fiscal years 1982 and 1983, the amount which the Corporation may expend for activities authorized under subsection (g)(2) which are not among those grant activities described in subparagraph (B) shall be 105 per centum of the amount derived for the preceding fiscal year.

(4) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization), or to the licensee or permittee of any public broadcast station, unless the governing body of any such organization, any committee of such governing body, or any advisory body of any such organization, holds open meetings preceded by reasonable notice to the public. All persons shall be permitted to attend any meeting of the board, or of any such committee or body, and no member of the public shall be required, as a condition to attendance at any such meeting, to register his or her name or to provide any other information. Nothing contained in this paragraph shall be construed to prevent any such board, committee, or body from holding closed sessions to consider personnel matters, pending or proposed litigation, labor negotiations, contract negotiations, the development of proposed or pending competitive proposals for grants or contracts, trade secrets, or commercial or financial information obtained from a person on a privileged or confidential basis. If any such meeting is closed pursuant to the provisions of this paragraph, the organization involved shall make available to the public a written statement containing—

(A) an explanation of the reasons for closing the meeting, including a general description of the subject matter of the meeting; and

(B) a list of the individuals who attended the meeting, including an identification of any organization represented by any such individual.

(5) Funds may not be distributed pursuant to this subsection to the licensee or permittee of any public broadcast station that does not maintain for public examination copies of the annual financial and audit reports submitted to the Corporation pursuant to subsection (l)(3)(B).

(6)(A) The Corporation, in consultation with public television and radio licensees, shall establish and review annually the percentage of funds reserved pursuant to paragraph (3)(A), and the criteria and conditions regarding the division and distribution of such funds among public television and radio stations.

(B) The funds reserved for public broadcast stations pursuant to paragraph (3)(A) shall be divided into two portions, one to be distributed among radio stations and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a public television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in public broadcasting, and on the basis of criteria designed to—

(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support;

(iii) assure that each eligible licensee and permittee of a public radio station receives a basic grant;

(iv) encourage innovative approaches, both technical and programming, to reaching new audiences;

(v) encourage responsiveness to the community served by each station;

(vi) encourage cost efficiencies, particularly in increasing programming expenditures in relation to administrative costs;

(vii) encourage programs to train women and minorities and to increase their participation in public broadcasting; and

(viii) encourage the use of volunteers by stations.

(7) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, 50 per centum of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

(8) The funds distributed to each public television and public radio station pursuant to paragraph (3)(A) may be used at the discretion of the recipient for purposes relating to the provision of public television and radio programming, including, but not limited to—

(A) producing, acquiring, broadcasting, or otherwise disseminating public television or radio programs;

(B) procuring national or regional programs distribution services that make public television or radio programs available for broadcast or other dissemination at times chosen by stations;

(C) acquiring, replacing, or maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of public television and radio programs; and

(D) developing and using nonbroadcast communications technologies for public television or radio programming purposes.

(9)(A) Any public broadcast station which desires to receive funds under this subpart shall establish a community advisory board. The membership of the board shall, to the maximum extent feasible, be composed of individuals who are representative of the communities served by the station.

(B) The board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. The board may also be delegated any other responsibilities, as determined by the governing body of the station. The board shall advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and informational needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs.

(C) The role of the board shall be solely advisory in nature, except to the extent other responsibilities are delegated to the board by the governing body of the station. In no case shall such board have any authority to exercise any control over the daily management or operation of the station.

(D) In the case of any public broadcasting station in existence on the effective date of this paragraph, such station shall comply with the requirements of this paragraph with respect to the establishment of a community advisory board not later than 180 days after such effective date.

(10) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization) unless assurances are provided that no officer or employee of the Public Broadcasting Service or National Public Radio (or any successor organization), as the case may be, will be compensated at an annual rate of pay which exceeds the rate of pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.

RECORDS AND AUDIT

(1)(1)(A) * * *

[(3)(A) Each recipient of assistance by grant or contract, other than a fixed price contract awarded pursuant to competitive bidding procedures, under this section shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

[(B) The Corporation or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this section. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.]

(3)(A) *The Corporation, in consultation with the General Accounting Office, the Financial Accounting Standards Board, and as appropriate with others, shall develop a uniform system of accounts which shall be used by all public broadcast licensees or permittees receiving funds under this subpart. Such system shall be designed to account fully for all funds received and expended for public broadcasting purposes by such licensees or permittees. Nothing contained in this paragraph shall prevent the Corporation from adopting different classes of accounting systems that may be appropriate to different classes of licensees or permittees.*

(B) *Each noncommercial broadcast licensee or permittee receiving funds under this subpart shall be required—*

(i) to keep its books, records, and accounts in such form as may be required by the Corporation;

(ii) to undergo an annual audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be accordance with auditing standards developed by the Corporation, in consultation with the General Accounting Office; and

(iii) to furnish annually to the Corporation a copy of the audit report required pursuant to clause (ii), as well as such other information regarding financial operations that the Corporation may require.

(C) *Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.*

(A) *The Corporation or any of its duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance that are related to assistance received under this section. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.*

SUBPART [C] D—GENERAL

[DEFINITIONS]

[SEC. 397. For the purposes of this part—

[(1) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

[(2) The term “construction”, as applied to educational television broadcasting facilities or educational radio broadcasting facilities, means the acquisition and installation of transmission and reception apparatus (including towers, microwave equipment, boosters, translators, repeaters, mobile equipment, video recording equipment, nonvideo recording equipment, radio subcarrier receivers, and satellite transceivers) necessary for television broadcasting or radio broadcasting, as the case may be, including apparatus which may incidentally be used for transmitting closed circuit television or radio programs, but such term does not include the construction or repair of structures to house such apparatus. In the case of apparatus, the acquisition and installation of which is so included, such term also includes planning therefor.

[(3) The term “Secretary” means the Secretary of Health, Education, and Welfare.

[(4) The terms “State educational television agency” and “State educational radio agency” mean, with respect to television broadcasting and radio broadcasting, respectively, (A) a board or commission established by State law for the purpose of promoting such broadcasting within a State, (B) a board or commission appointed by the Governor of a State for such purpose if such appointment is not inconsistent with State law, or (C) a State officer or agency responsible for the supervision or public elementary or secondary education or public higher education within the State which has been designated by the Governor to assume responsibility for the promotion of such broadcasting; and, in the case of the District of Columbia, the term “Governor” means the Board of Commissioners of the District of Columbia and, in the case of the Trust Territory of the Pacific Islands, means the High Commissioner thereof.

[(5) The term “nonprofit” as applied to any foundation, corporation, or association, means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

[(6) The term “Corporation” means the Corporation authorized to be established by subpart B of this part.

[(7) The term “noncommercial educational broadcast station” means a television or radio broadcast station, which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of enactment of the Public Broadcasting Act of 1967, is eligible to be licensed or is licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes.

【(8) The term “interconnection” means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to noncommercial educational television or radio broadcast stations.

【(9) The term “educational television or radio programs” means programs which are primarily designed for educational or cultural purposes.

【(10) The term “non-Federal financial support” means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

【(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

【(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State or, any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

【(11) The term “public broadcasting entity” means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television or radio programs.】

DEFINITIONS

Sec. 397. For the purposes of this part—

(1) *The term “construction,” as applied to public telecommunications facilities, means acquisition (including acquisition by lease), installation, and modernization of public telecommunications facilities and planning and preparatory steps incidental thereto.*

(2) *The term “Corporation” means the Corporation for Public Broadcasting authorized to be established in subpart C of this part.*

(3) *The term “interconnection system” means any system of interconnection facilities used for the distribution of programs (which may include the selection and scheduling of programs for such distribution) to public telecommunications entities.*

(4) *The term “meeting” means the deliberations of at least the number of members of a governing or advisory body, or any committee thereof, required to take action on behalf of such body or committee where such deliberations determine or result in the joint conduct or disposition of the governing or advisory body’s business, or the committee’s business, as the case may be, but only to the extent that such deliberations relate to public broadcasting.*

(5) *The terms “noncommercial educational broadcast station” and “public broadcast station” means a television or radio broadcast station*

which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of the enactment of the Public Telecommunications Financing Act of 1978 is eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes.

(6) The term "noncommercial telecommunications entity" means any enterprise which (A) is owned and operated by a State, a political or special purpose subdivision of a State, a public agency or nonprofit private foundation, corporation, or association; and (B) has been organized primarily for the purpose of distributing noncommercial educational or cultural audio or video programs by means of television or radio or other telecommunications technology, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

(7) The term "nonprofit", as applied to any foundation, corporation, or association, means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(8) The term "non-Federal financial support" means the total of cash and the fair market value of property and services (including, to the extent provided in the second sentence of this paragraph, the personal services of volunteers) received—

(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof; or (ii) any public broadcasting entity; or

(B) as gifts, grants, donations, contributions, or payments from any State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provisions of educational or instructional television or radio programs.

Such term includes the fair market value of personal services of volunteers but only with respect to such services provided to public telecommunications entities and only, with respect to such an entity in a fiscal year to the extent that the value of the services does not exceed five percent of the total non-Federal financial support of the entity in that fiscal year.

(9) The term "pre-operational expenses" means all nonconstruction costs incurred by new telecommunications entities before the date on which they begin providing service to the public, and all nonconstruction costs associated with expansion of existing entities before the date on which such expanded capacity is activated, except that such expenses shall not include any portion of the salaries of any personnel employed by an operating broadcasting station or other telecommunications entity.

(10) The term "public broadcasting entity" means the Corporation, any licensee or permittee of a public broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television or radio programs.

(11) The term "public telecommunications entity" means any enterprise which (A) is a public broadcasting station or a noncommercial telecommunications entity; (B) receives funds from the Corporation under section 396(k); and (C) distributes public television or radio program services to the public.

(12) The term "public telecommunications facilities" means apparatus necessary for production, interconnection, captioning, broadcast, or other distribution of programming, including, without limitation, studio equipment, cameras, microphones, audio and video storage or reproduction equipment or both, signal processors and switchers, towers, antennas, transmitters, translators, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization transmitting and receiving equipment, cable television equipment, video and audio cassettes and discs, optical fiber communications equipment, and other means of transmitting, emitting, storing, and receiving images and sounds, or intelligence, except that such term shall not include the buildings to house such apparatus, with the exception of small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities.

(13) The term "public telecommunications services" means noncommercial educational and cultural radio and television programs, and, in addition, other noncommercial instructional or informational material that may be transmitted by means of electronic communications.

(14) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(15) The term "system of public broadcast stations" means any two or more public television or radio stations acting cooperatively, on a formal or informal basis, either to produce, acquire, or distribute programs, or to undertake programming and related activities.

[FEDERAL INTERFERENCE OR CONTROL PROHIBITED]

[SEC. 398. Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under this Act; or (2) to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over educational television or radio broadcasting, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or educational broadcasting station or system.]

FEDERAL INTERFERENCE OR CONTROL PROHIBITED; EQUAL EMPLOYMENT OPPORTUNITY

SEC. 398. (a) Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under, this Act; or (2) except to the extent authorized in subsection (b), to authorize any department, any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over public telecommunications, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or public telecommunications entity.

(b)(1) *Equal opportunity in employment shall be afforded to all persons by all public telecommunications entities receiving funds pursuant to subpart C (hereinafter in this subsection referred to as "recipients"), and no person shall be subjected to discrimination in employment (including discrimination in connection with appointments to governing or advisory bodies) by any such recipient on the grounds of race, color, religion, national origin, or sex.*

(2) *The Secretary of Health, Education, and Welfare is authorized and directed to enforce this subsection and to prescribe such rules and regulations as may be necessary to carry out the Secretary's functions under this subsection.*

(3)(A) *The Corporation shall incorporate into each grant agreement or contract with any recipient entered into on or after the effective date of the rules and regulations prescribed by the Secretary of Health, Education, and Welfare, pursuant to paragraph (2) a statement indicating that, as a material part of the terms and conditions of the grant agreement or contract, the recipient will comply with the provisions of paragraph (1) and the rules and regulations prescribed pursuant to paragraph (2). Any public or non-commercial telecommunications entity which desires to receive funds under subpart C shall, before receiving any such funds, provide to the Corporation any information which the Corporation may require to satisfy itself that such entity is affording equal opportunity in employment in accordance with the requirements of this subsection.*

(B) *If the Corporation is not satisfied that such entity is affording equal opportunity in employment in accordance with the requirements of this subsection, the Corporation shall notify the Secretary, and the Secretary shall review the matter and make a final determination regarding whether such entity is affording equal opportunity in employment. In any case in which the Secretary conducts a review under the preceding sentence, the Corporation shall make funds available to the entity involved pursuant to the grant application of such entity (if the Corporation would have approved such application but for the finding of the Corporation under this paragraph) pending a final determination of the Secretary upon completion of such review. The Corporation shall monitor the equal employment opportunity practices of each recipient throughout the duration of the grant or contract.*

(4) *Based upon its responsibilities under paragraph (3), the Corporation shall provide an annual report for the preceding fiscal year ending September 30 to the Secretary of Health, Education, and Welfare on or before the 31st day of December of each year. The reports shall contain information in the form required by the Secretary in order to determine whether recipients are in compliance with paragraph (1). The Corporation shall submit a summary of such report to the President and the Congress as part of the report required in section 396(i). The Corporation shall provide other information in the form and with any analysis which the Secretary may require in order to carry out the Secretary's functions under this subsection.*

(5) *Whenever the Secretary of Health, Education, and Welfare makes a final determination, pursuant to the rules and regulations which the Secretary shall prescribe, that a recipient is not in compliance with paragraph (1), the Secretary shall, within 10 days after such determination, notify the recipient in writing of such determination and request the recipient to secure compliance. Unless the recipient, within 120 days after receipt of such written notice—*

(A) demonstrates to the Secretary that the violation has been corrected; or

(B) enters into a compliance agreement approved by the Secretary; the Secretary shall direct the Corporation to reduce or suspend any further payments of funds under this part to the recipient and the Corporation shall comply with such directive. Resumption of payments shall take place only when the Secretary certifies to the Corporation that the recipient has entered into a compliance agreement approved by the Secretary. A recipient whose funds have been reduced or suspended may apply at any time to the Secretary for such certification."

**[EDITORIALIZING AND SUPPORT OF POLITICAL CANDIDATES
PROHIBITED; RECORDINGS OF CERTAIN PROGRAMS]**

[SEC. 399. (a) No noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office.

[(b)(1) Except as provided in paragraph (2), each licensee which receives assistance under this part after the date of the enactment of this subsection shall retain an audio recording of each of its broadcasts of any program in which any issue of public importance is discussed. Each such recording shall be retained for the sixty-day period beginning on the date on which the licensee broadcasts such program.

[(2) The requirements of paragraph (1) shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (1).

[(3) Each licensee and entity designated by a licensee under paragraph (2) which retains a recording under paragraph (1) or (2) shall, in the period during which such recording is required under such paragraph to be retained, make a copy of such recording available—

[(A) to the Commission upon its request, and

[(B) to any other person upon payment to the licensee or designated entity (as the case may be) of its reasonable cost of making such copy.

[(4) The Commission shall by rule prescribe—

[(A) the manner in which recordings required by this subsection shall be kept, and

[(B) the conditions under which they shall be available to persons other than the Commission, giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens.

[(5) From amounts appropriated pursuant to section 391 after the date of enactment of this paragraph, the Secretary may make a grant to any licensee of a noncommercial educational broadcast station who received assistance under this part of the full amount necessary to acquire equipment to permit such licensee to comply with paragraph (1) of this subsection.]

CANDIDATES FOR POLITICAL OFFICE

SEC. 399. No public telecommunications entity may support or oppose any candidate for political office.

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